SUPREME COURT, U. S.
FILED
JUL 30 1975
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-166

FIDELITY TELEVISION, INC.,

Petitioner,

v.

FEDERAL COMMUNICATIONS COMMISSION, *et al.*,

Respondents.

APPENDIX D

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APPENDIX D

Initial Decision of
Hearing Examiner Thomas H. Donahue

August 13, 1969

FCC 69D-43
36216

In re Applications of	)	
	)	
RKO GENERAL, INC. (KHJ-TV) Los Angeles, California	)	Docket No. 16679 File No. BRCT-58
	)	
For Renewal of Broadcast License	)	
	)	
FIDELITY TELEVISION, INC. Norwalk, California	)	Docket No. 16680 File No. BPCT-3655
	)	
For Construction Permit for New Television Broadcast Station	)	

Issued: August 11, 1969
Released: August 13, 1969

[¶ 53:24(R)] *Programming considerations.*

In a comparative consideration of the application for renewal of an independent TV station in Los Angeles, the failure of the station to compete with the network stations in news programming, the failure to editorialize, the heavy emphasis on commercial announcements and movies, some featuring crime and violence, provoking objections from a viewers group and a church group, among

others, are adverse factors. RKO General, Inc., 16 R R 2d 1181 [Init. Dec., 1969].

[¶53:24(Z)(10)] *Trade practices.*

In a comparative consideration of the application for renewal of an independent TV station in Los Angeles operated by a subsidiary of a larger conglomerate, the practice of the parent company in using its purchasing power to induce its larger sellers to buy advertising time and announcements on the subsidiary's stations is an adverse factor. RKO General, Inc., 16 RR 2d 1181 [Init Dec., 1969].

[¶53:24, ¶53:24(A), ¶53:24(R), ¶53:24(U), ¶53:24(Z)(10)] *Choice between TV renewal applicant and applicant for new station.*

In a comparative consideration of the renewal application of an independent TV station in Los Angeles operated by a subsidiary of a large conglomerate owning, among other things, several radio and television stations, and a mutually exclusive application for a new station in Norwalk, California, the latter is preferred because of its local ownership, its lack of interests in other mass media, and the demonstrated need of a station in the locality. Moreover, the licensee of the existing station, notwithstanding its experience in, and the many contributions it has made to television, was unfavorably affected by its heavy emphasis on movies in its programming and by the use of the

purchasing power of its parent company to attract advertisers. RKO General, Inc., 16 RR 2d 1181 [Init Dec., 1969].

APPEARANCES

Harold David Cohen, William S. Green, and J. Laurent Scharff, on behalf of RKO General, Inc.; Edward P. Morgan, Robert N. Green, and Walter H. Sweeney, on behalf of Fidelity Television, Inc.; Anthony J. Sobczak and John F. Reilly, on behalf of the Chief, Broadcast Bureau, Federal Communications Commission (limited participation only).

INITIAL DECISION OF HEARING EXAMINER THOMAS H. DONAHUE

Preliminary Statement

1. On August 31, 1965, RKO filed an application for renewal of license covering its station KHJ - TV on Channel 9 in Los Angeles. On October 25, 1965, Fidelity filed an application for a construction permit for a new television station to operate on Channel 9 in Norwalk, California.

2. On June 8, 1966, the Commission issued an order (FCC 66-503) finding both the RKO and Fidelity applications qualified for grant and also finding them mutually exclusive. Hearing was directed on these issues:

1. To determine which of the proposals would better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

The order carried the following footnote to the designation clause:

> "2 The Commission in its Policy Statement on Comparative Broadcast Hearing, (FCC 65-689, released July 28, 1965, 30 FR 9660, 5 RR 2d 1901), indicated that it did not therein attempt to deal with'. . . the somewhat different problems raised where an applicant is contesting with a licensee seeking renewal of license. ' That remains our position. However, we have also, subsequently indicated (Seven (7) League Productions, Inc., et al., 1 FCC 2d 1597-9) that the Policy Statement will govern the introduction of evidence where a renewal application is being contested. For example, as in regular comparative hearings, evidence relating to programming proposals and to character will not be entertained in the contested renewal proceeding unless first specifically put in issue by the Hearing Order or on subsequent enlargement of issues upon a threshold factual showing that a distinctive difference or deficiency exists and is worth exploring. We have not, however, reached any determinations as to weight to be accorded various factors of difference betweem the renewal applicant and competin applicant, preferring instead to do so later up on the full, factual hearing record that is developed by competent evidence under the designated issues. According[ly], parties in a contested renewal proceeding are free to urge any arguments they may deem applicable concerning the relative weight to be afforded the evidence bearing on the various comparative factors developed at hearing."

3. On June 27, 1966, Fidelity filed a Petition to Enlarge Issues. The issues sought read:

> (a) To determine whether a grant to one or the other of the applicants would provide the more fair, and equitable distribution of television service.
>
> (b) To determine the "service philosophy" of each applicant and the matters on which the applicants rely in support thereof.
>
> (c) To determine the significant differences between the applicants with respect to the programming service proposed in each application.

On the same date RKO filed a Petition to Clarify the Issues or, in the Alternative, Enlarge the Issues. This pleading requested that the issues be clarified to embrace the record of RKO, in the alternative, the issues be enlarged to permit the introduction of evidence concerning PKO's record of performance.

4. On July 11, 1966, a prehearing conference was held. The conference was largely deovted to a discussion of un- under what issues the hearing was to be tried and how, under the Commission's processes, answer to that question could or should be obtained. The Broadcast Bureau announced that since the hearing was to be a comparative hearing it would not participate.

5. On July 29, 1966, another prehearing conference was held. At that conference the Examiner ruled that, in accordance with the Commission's Policy Statement, he would hear threshold presentations on whether RKO should be permitted to make a showing, at hearing, on KHJ-TV's

past record of performance, particularly in respect to past record of programming.

6. On September 26, 1966, the Review Board released a Memorandum Opinion and Order (FCC 66R-368) [8RR 2d 576]denying RKO's petition of June 27, 1966, to enlarge or clarify the issues. On October 31, 1966, the Board released a Memorandum Opinion and Order (FCC 66R-430) [8 RR 2d 957]denying Fidelity's petition of June 27, 1966, to enlarge issues.

7. On September 30, 1966, the Examiner heard the threshold showing noted above. Following these presentations he ruled that the past broadcast record of KHJ - TV and, to a limited extent, the record of RKO were to be considered within the scope of the issues.

8. On November 7, 1966, Fidelity filed with the Commission a pleading called "Application for Review Board Order Denying Requested Issues." This pleading sought reversal of the Board's denials of Fidelity's June 27, 1966 petition. By order released December 29, 1966 (FCC 66-1171), the pleading was denied.

9. Hearing got underway on February 27, 1967. Between February 27, 1967 and June 15, 1967, 24 days were spent in hearing. The record closed on the latter date.

10. During hearing, on March 8, 1967, FIdelity filed a Petition for Enlargement of Issues and for Other Relief. These issues were sought:

> To determine, in light of all the facts and circumstances surrounding the Complaint filed by the United States of America on March 2, 1967, against General Tire and Rubber Company, Aerojet-General Corporation, A.M. Byers Company, and

> RKO General, Inc., whether RKO General, Inc., is qualified to be a licensee of the facility for which it is applying herein, or alternatively, whether such matters bear upon the comparative qualifications of RKO General, Inc.
>
> To determine the extent of involvement by RKO General, Inc., and related corporations in the communications and entertaiment fields, including, but not limited to such things as the production and distribution of films and other program material, and ownership and operation of broadcast stations, CATV systems, and theaters; whether there exists a concentration of control and ownership of production, distribution, and exhibition facilities that discourages free competition or is otherwise inconsistent with the public interest; and whether any matters so adduced reflect adversely on RKO General, Inc., to the point of requiring its disqualification herein or the assessment of a comparative demerit.

By Memorandum Opinion and Order, released June 20, 1967 (FCC 67R - 239) [10RR 2d 282]the Review Board denied this petition. The Board further ordered that if grant were to be made to RKO it should be made without prejudice to whatever action, if any, the Commission might deem appropriate as a result of a pending civil action, filed March 2, 1967, in Federal Court, United States v. General Tire, et al., (No. 6-67-155), US DC. No. Dist. Ohio.

11. On March 9, 1967, Fidelity filed a Petition for Special Relief with Respect to Application for Review. Through this pleading Fidelity sought designation of these issues:

(a) To determine on a comparative basis the significant differences between the applicants with respect to the programming that they propose to provide to the community and area each would serve.

(b) To determine on a comparative basis the significant differences between the applicants with respect to the efforts made by each applicant to ascertain the needs and interests of the community and area each proposes to serve.

As an alternative to the Commission's adding the requested issues, request was made that the Review Board be directed to make a determination whether such issues should be added. The Commission by Memorandum Opinion and Order released July 12, 1967 (FCC 67-694) [10 RR 2d 617], denied the petition.

12. On June 30, 1967, FIdelity filed with the Review Board a Petition for Clarification. The pleading requested the Board to claryfy its Memorandum Opinion and Order of June 20, 1967, so as to remove any doubt that Fidelity, under the issues, "be permitted to adduce all relevant material evidence susceptible of development within the ambit of the Commission's Rules bearing upon the charges contained in the anti-trust complaint, particularly as they relate to RKO's broadcast practices." The petition was denied by a Review Board Memorandum Opinion and Order released August 28, 1967 (FCC 67R-359) [11RR 2d 105].

13. On July 24, 1967, Fidelity filed a Petition for Clarification or in the Alternative for Enlargement of Issues. That pleading sought these issues:

(a) To determine on a comparative basis the significant differences between the applicants with respect to the programming proposed by each applicant.

(b) To determine on a comparative basis the significant differences between the applicants with respect to the efforts made by each applicant to ascertain community needs and interests.

By Memorandum Opinion and Order released September 22, 1967 (FCC 67R-400) [11 RR 2d 217], the Review Board denied the petition.

14. On February 9, 1968, Fidelity filed a Petition to Reopen the Record. The pleading sought opportunity to present newly discovered evidence relating to reciprocal trade practices of RKO.

15 On February 19, 1968, Fidelity filed a Petition for Reconsideration and for Enlargement of Issues. This pleading asked the Review Board to reconsider its order of June 20, 1967.

16. By Memorandum Opinion and Order released March 11, 1968 (FCC 68M-394), the Examiner ordered that the record be reopened and that a conference be held looking toward further hearing. In the order reopening the record the following statement was included concerning the scope of future proceedings:

"The record is not being reopened for review of the trade practices of General Tire and Rubber and its subsidiaries. It is not being reopened as

> a repository for the record in the Ohio anti-trust suit. The Examiner is not inviting a do -it -yourself kit of undigested data sealed with a promise that some of it may be material to the qualifications of RKO. Petitioner asks that the record be reopened for the purpose of taking evidence on the reciprocal trade practices of RKO. With the caveat that such evidence must be patently germane to RKO's stewardship of KHJ - TV that language is adopted as words limiting the scope of future hearing."

17. Further prehearing conferences were held on March 18, April 10 and April 15, 1968. A hearing conference was held on August 15, 1968. Hearings under the reopened record were held for 12 days between June 12, 1968 and August 26, 1968. The record closed on the latter day.

18. On May 10, 1068, the Review Board released a Memorandum Opinion and Order denying the Petition for Reconsideration and for Enlargement of Issues filed by Fidelity on February 19, 1968 (FCC 68R - 196) [13 RR 2d 85].

19. On May 17, 1968, Fidelity filed an Application for Review. This pleading asked the Commission to reverse the Review Board and grant the relief requested in its Petition for Reconsideration and for Enlargement of Issues.

20. On September 9, 1968, the Commission by Memorandum Opinion and Order ruled on Fidelity's Application for Review of May 17, 1968 (FCC 68R-892) [14 RR 2d 90]. The Commission ruled that the development of events had given Fidelity substantially what if sought by

its petition except for a disqualification issue. On its own motion the Commission added this issue:

> To determine, in light of the evidence adduced with respect to the preceding issues, whether RKO General, Inc. should be disqualified or, if not, whether a comparative demerit should be assessed against it in this proceeding.

21. Proposed findings of fact and conclusions were filed on the first two issues by RKO and Fidelity on September 15, 1968. Reply findings were filed by both applicants on October 20, 1968. Supplemental proposed findings and conclusions on the trade segment of the hearing were filed by Fidelity on October 28, 1968 and by RKO on December 9, 1968. On January 31, 1969, Fidelity filed a motion to strike and reply to the supplemental findings and conclusions of RKO. On the same date the Broadcast Bureau, who as previously noted, did not participate in the proceeding, filed proposed findings and conclusions addressed solely to the reopened record.

Findings of Fact
(First Phase of Hearing)

General Tire and Rubber

Its Composition and Scope

22. RKO General, Inc., licensee of the facility at issue, is a wholly-owned subsidiary of The General Tire and Rubber Company; General Tire is a large conglomerate with headquarters in Akron, Ohio and New York City The Fortune Directory of the 500 Largest U.S. Industrial Corporations ranks General Tire 97th for 1968 and 90th

for 1967. Fortune, May 15, 1969, pg. 170 (Official Notice Taken). General Tire's stock is, of course, sold on the New York Stock Exchange. Voting stock numbers about 17 million shares. Stockholders number about 40,000. Aside from brokers and their representatives, no single stockholder holds as much as 3% of the stock. The O'Neil brothers, Thomas O'Neil is Chairman of the Board, M. G. is Presimembers of the O'Neil family have some stock interest. Thomas O'Neil is Chairman of the Board, M. G. is President, and John a Director.

factures and distributes a wide variety of products and furnishes numerous services. Besides automobile tires, General Tire pro0 factures and distributes a wide variety of products and furnishes numerous services. Besides automobile tires, General Tire produces and distributes: rocke power plants; rocket propulsion systems; chemicals; space system components; military ordnance components; metal and wrought-iron goods; electronic equipment; metals; chemicals; plastics; and rubber goods. In the field of services, it furnishes: architecture; engineering and construction management; commercial air transportation; theatres; outdoor advertising; and community antenna television (CATV)[1]

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[1] General Tire owns numerous CATV facilities in Arizona, California, Kansas, Mississippi, Missouri, New Mexico, Oklahoma, and Texas. It also owns a substantial interest in, and is in the process of obtaining control of H and B American Corp., the largest CATV operation in the country.

Broadcast Interests

24. Among the services sold by General Tire, not noted above, are radio and television broadcasting. RKO General, Inc., under which title General Tire handles the bulk of its broadcast business, is licensee of standard, F , and television stations in Boston, New York, and Los Angeles. It is licensee of standard and television stations in Memphis and has a construction permit for an FM station there. It is licensee of a standard broadcast station in Bethesda, Maryland, and an FM station in Washington, D. C. Through another subsidiary General Tire holds license for a UHF station in Hartford, Connecticut, which furnishes a subscription television service. Through a Canadian -owned corporation and RKO, General Tire is also licensee of standard, FM and television stations in Windsor, Ontario. Since 1942 it has operated the Yankee Network, which, in 1942, had about 25 affiliates, as well as the Colonial Network, a subsidiary programming service. [2]

Some Contributions to Broadcasting

25. Technically, RKO has been active in the field of radio. In the 1940's, it experimented with FM broadcasts from Mt. Washington, the highest point in New England. In 1948 it moved that operation to Boston (WNAC - FM, later WRKO). At WGMS - FM in Washington it claims

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2 At one time RKO had a controlling interest in the Mutual Network, the largest radio network in the nation, having 569 affiliates. It sold this property in 1957. It also operated the Don Lee Network for some eight years, a west coast network having about 45 affiliates.

leadership in the field of stereo-broadcasting. In 1950 it developed a technique for filter treating light projection sources for film and cameras which became widely used in the industry. In 1951 it developed a Gamma corrected modulator for television transmitters. In 1952 it developed an automatic video control. In 1953 it developed a system of P. F. patching for emergency power cutback of television transmitters. In 1955 it developed an automatic control of set -up or black level for transmission of network video, thus overcoming certain distortion problems. In 1961 it became one of the first to remotely control a 50 kw AM transmitter. In 1963 it pioneered the development of dual horizontally and vertically polarized FM signals. In the same year it pioneered quartz lighting for TV remote pickups. In 1964 it claimed to be the first station to install permanent studio, control room type color remote setups. These installations were located at Shea Stadium and Madison Square Garden. In the same year, it claimed a first in utilizing a spectrum oscilloscope to monitor modulation percentage of an FM transmitter. In 1964 it also erected the tallest self-supporting antenna tower in the East (1066 feet). Located in a hurricane zone, the tower is designed to admit structural failure, only, at a wind velocity of 251 miles per hour. In 1964, RKO also pioneered and developed the first parallel transmitter operation in the nation, a development that has found favor with a number of other television stations.

26. RKO pioneered subscription television. In 1960 it applied for authorization to conduct subscription TV in Hartford over its UHF station there, WHCT. RKO was the only broadcaster to conduct such a trial. It pledged expenditures of up to $10,000,000 to make the effort.

The trial is now in its fifth year and serves 7,000 customers. Information on, and analysis of, the operation has consistently been furnished to the Commission.

27. RKO has contributed to educational broadcasting through financial gifts and the making of equipment and program material available to educational stations. In New York it pledged a total of $350,000 to the educational stations there. In Los Angeles it similarly pledged $100,000. In Memphis $78,000 in cash and equipment was donated to the educational station. Gifts have also been made to Pepperdine College for a speech improvement project and equipment has been donated to Emerson College for its television course.

28. RKO has also contributed to the development of new program sources for television. It experimented with live programming but decided that costs were prohibitive. It then turned to feature motion picture film. There it encountered resistance from the movie industry. However, before 1955 it had bought some 30 feature lengh films from the Bank of America and in 1955 it acquired RKO Radio Pictures, Inc. and with that company over 600 feature length films. These steps pioneered the presentation of movies over television and aided RKO's Los Angeles and New York stations in becoming economically viable in highly competitive markets. RKO has also either produced or participated in the financing of other material for television programs. These productions have appeared not only on RKO -owned but on other television stations. Included in production efforts in this area are such features as: Ladies of the Press, In Search of a Solution, Hollywood Backstage, Firing Line, Politics '64, Marcel Marceau, Surf's Up, Hollywood A -Go -Go, Man in Space,

Fashion: Italiana Style, Matisse, International Aero Classic, the Great Mini-Skirt Rebellion, Festa Italiana, Murray the K at Shea, The Plundered Art of Europe, The Al Capp Show, Rembrandt Exhibit. Also included are a number of sports features including: Griffith-Gonzales Fight, 59th Annual Millrose Games, 47th Annual Knights of Columbus Meet, ICAA Tract Meet, Invitational Tennis Tournament, Tiger-Griffith Championship Fight, National Horse Show, Turf Classics. RKO has operated a Washington New Bureau for several years and, through that Bureau, has produced both national and local public affairs programs for its stations as well as for syndication.

Method of Operation

29. General Tire and its subsidiaries are a highly integrated organization, Out of the conglomerate's headquarters come policies which govern its activities. The organization is not, however, leaderless nor, on the basis of this record, does it fail to present focus for the assessment of resonsibility for its acts. Thomas F. O'Neil, Chairman of the Board of General Tire, John B. Poor, President of RKO General, Inc., Hathaway Watson, President of RKO General Broadcasting Division of General Tire, and Malcolm C. Klein, Vice President and General Manager of KHJ - TV, as well as numerous other corporate officials, appeared and testified in this proceeding. Whatever curiosity existed over the internal operations and policies of General Tire, RKO, and KHJ-TV did not go unsatisfied in this record by any dearth of witnesses competent and available to testify on the subject.

30. RKO, or predecessor General Tire subsidiaries, have operated radio stations for 25 years. KHJ-TV was acquired in 1951. The station, under RKO, has never had a network affiliation.

31. The policy of RKO is to have management aware of community needs and to present programs which inform and stimulate interest. The objective is to broadcast programs which find acceptance and provide amusement, relaxation and, at times, instruction. RKO requires station management to provide these things as well as to become involved in community affairs, and maintain sensitive relationship with the community. Responsibility for the foregoing rests with local management but headquarters inspects, encourages and insures compliance with company policy.

32. RKO believes that through orientation with the communities served its stations can be sensitive to community need and be able to attract audience. RKO has some network affiliated stations and some not so affiliated. It has stations located in different parts of the country. Because of these factors it does not consider it feasible to originate programs from a single source.

33. Degree of delegation of authority to the local level is the responsibility of national headquarters staff and is accomplished through the hiring of station managers. These, subject to headquarters approval, select staff such as program directors who have a voice in the station's relationship with the community both on and off the air. RKO believes the selection of good men is important and that station managers are not interchangeable. As a matter of policy, each RKO station is required to "take into account" the needs and tastes of the community; the program plans

of other stations in the market; the station's capabilities"; and the availability and cost of programs.

34. RKO believes it cannot compete with network affiliates on national and international news and documentaries. Nor, do RKO stations editorialize. RKO takes the position that if need is met by other stations, duplicating effort by it is unnecessary. RKO program format vary between stations.

35. RKO headquarters is not passive on programming. It approves general program formats and reviews program schedules in light of the several stations reasoning and headquarters' Knowledge of market characteristics. Statistics are required from the stations on program categories to assure that pledges to the Commission are kept. Stations are monitored from time to time. Lists of feature films to be presented are reviewed and occasionally changes are suggested. Headquarters participates in the development of public service vehicles. In the production or acquisition of films for station use headquarters consults frequently with the stations concerning needs and uses.

36. The theory is that the station plays a major role in programming to meet a corporate "goal" of community service. Headquarters' function is one of stimulating, reviewing and inspecting programming with ultimate responsibility for approval of the programming presented by the station.

37. It is the policy of RKO to insure that stations comply with FCC rules. Headquarters provides legal and engineering assistance and from station reports satisfies itself that rules requirements are being met. Headquarters has a continuing interest in Commission policy pronouncements.

When possible, it seeks to advance Commission objectives. When it decides it should, it makes in -depth studies alone or with broadcasters and comments to the Commission on the results of these studies. It has participated in this way in numerous rule making proceedings.

Some Economic Data

38. RKO asserts that it has had a considerable financial struggle at KHJ - TV. It acquired the station in 1951. It reported net losses for the first four years and for two of the next four. By fiscal 1960, however, it had recouped early losses and moved into an overall profit position. It asserts that resources derived from its other enterprises enabled it to sustain the losses until it acquired a profit position.

39. An economist testified that during the first third of KHJ - TV ownership by RKO the station sustained financial loss; during the second third it experienced sub-standard profitability; and during the last third the station showed good profitability and return relative to past experience. Higher profitability the economist attributed to greater expenditures for programming which drew more audience and hence more advertisers.

40. Before tax, operating profits earned by Los Angeles stations in 1965 totalled $27 million with an overall profit return of 33.4%. KHJ-TV shared about 6% of the total profits. Its shares of Los Angeles TV profits for other year was: 1957 - 4.1%; 1958 - 1.1%; 1959 - 4.3%; 1960 - 1.8%; 1961 -4.1% 1962 - 5.6%; 1963 - 6.4%; 1964 - 8.1%.

41. In 1965 in the 106 markets in this country with three or more television stations, before tax, profit margins for

the stations were 34.9%. KHJ - TV profit margin was 19.8%. In those markets having less that three stations, similar profit margin was 19.7%.

Personnel

42. Liaison between General Tire and that part of its radio interest to which KHJ- TV belongs is largely the responsability ot Hathaway Watson. Watson is a graduate of Harvard and of the Harvard Graduate School of Business Administration. From 1943 to 1951 he was with the Federal Government at Lend - Lease, the State Department, and the National Security Resources Board. In 1951 he went with Booz, Allen & Hamilton, management consultants. There he became a partner in charge of the Washington office. He left Booz-Allen to go with General Tire in 1959 after having served a year as consultant on General Tire's broadcast interests. Since 1963 he has been a member of the Research Committee of the National Association of Broadcasters. In 1965 he served on the Council for Television Development and was Chairman of that organization's "Research Committe." Sam Slate carries the title "Vice President, RKO General Broadcasting." Slate has held the title since January 1964. He is a graduate of the University of Georgia. He has been in broadcasting more than 30 years. He has been with United Press, CBS News and Press, Phillips H. Lord, Inc., U. S. Maritime Service, and the British Broadcasting Corporation. He has been a Vice President of CBS and was once General Manager of one of its stations, WCBS, He has written and produced numerous television programs. He has written a book on "Broadcasting" and was President of the New York Broadcasters Association. For his productions he received a Peabody Award and a Presidential Citation.

43. Individuals who play a role in supervising the day to-day operation of KHJ-TV included:

Malcolm C. Klein, KHJ - TV's manager (he bears the title "Vice President and General Manager, KHJ - TV") is a native of Los Angeles. He graduated from the University of California. Entering broadcasting in 1948 at KLAC - TV, now KCOP, Los Angeles, he moved through the ranks: stage department, direction, production, head of film department and manager of operations. In 1953 he went with KABC-TV in Los Angeles in the sales department. There he became Assistant General Sales Manager. In 1959 he went to New York as Vice President and General Manager of WNTA, Channel 13, Newark. In May 1960 he returned to Los Angeles as General Manager of KHJ – TV. He lives in Encino, California. He has served on the Board of Governors of the Academy of Television Arts and Sciences, on the District Attorney's Advisory Council, on the Public Relations Committee of the Southern California Symphony Association, and on the City of Hope Board of Trustees.

Hugh F. Del Regno is Controller of KHJ - TV. He has been with the station since 1963, having previously worked for Curtis-Wright and NBC. He has a degree in managment and accounting from Fordham and a master's degree in business administration from New York University. At the station he has responsibility for auditing and accounting, personnel administration and building maintenance. He belongs to several professional organizations and the Urban League (Los Angeles Chapter), the U.C.L.A. Art Council, and the Los Angeles County Museum of Art (charter member).

Wally Sherwin is Director of Programming at KHJ - TV. He has lived in the Los Angeles area 20 years. He went to Northwestern University. He has been in broadcasting or show business for nearly 30 years. He is on the Mayor's Music Advisory Board (Los Angeles), is a member of the National Association of Television Programming Executives, the Academy of Television Arts and Sciences, the Hollywood Advertising Club and the Milline Club. He has assisted several civic groups in fund -raising drives and is active in youth organization centered around three local high schools.

Charles P. Dwyer is General Sales Manager of KHJ - TV. He has been in the radio sales field since 1946 and has worked for numerous broadcast stations, network and advertising agencies. He has been with KHJ - TV since 1964.

Allan Moll is Director of News and Public Affairs at KHJ - TV. He started out in Utah in law where he practiced for seven years. He then shifted to journalism. For 27 years he has been active in the broadcast news field. He was with two Salt Lake City radio stations, was news editor of the Inter-mountain Network, and was regional correspondent for an NBC news show. He was twice nominated for Peabody and Sylvania awards. He was chairman of the Governor of California's Committee on Emergency Broadcasting and member of a local committee on reporting of civil disorders. He is a member of the Radio Television News Directors Association, the Utah State Bar Association, and the Radio and TV Law Enforcement Committee of the National Conference of Christians and Jews. He is also co-chairman of a division of the

United Jewish Welfare Fund. In the past he has headed the Utah Heart Fund Drive and has been treasurer of a home owners association.

Bryan T. Cole is Manager of Operations and Facilities at KHJ - TV. He is a graduate engineer (University of Oklahoma B. S.) and has taken additional electrical engineering work at other universities and in the Army. He is a registered electrical engineer in the State of California. He is Vice President of the Long Beach Chapter of the California Society of Professional Engineers, is a member of the National Society of Professional Engineers, the Institute of Electrical and Electronic Engineers, and the Society of Television Engineers. He is active in a number of civic organizations in Long Beach.

Terry Anderson, the Director of Film Programming at KHJ - TV, is a native of the Los Angeles area. He joined KHJ - TV in 1958, as assistant film editor after one year with Desilu Studios. He lives in Canoga Park, and is a member of the Knights of Columbus, Catholic Press Council, and U.S. Army Reserve.

Mark Davidson has been eith KHJ-TV since 1964. In early 1965 he started broadcasting an interview program which later was carried once a week. The program was called "Reporter at Large." Before joining KHJ - TV he was with the Steve Allen Show for a year, and before that spent nine years as a writer for documentary films. Programs he worked on won two Academy Award. He has an M.A. from Columbia and a B.A. from U.C.L.A. He has worked on a newspaper and for a news magazine.

Ascertainment of Community Need

44. Except for the requirement that company policies be adhered to, there is no evidence that General Tire or RKO headquarters attempt to intrude upon the autonomy of station managers insofar as the day -to -day programming of their respective stations is concerned. During the most recent license renewal period, KHJ - TV personnel met with those whom they considered to be civic leaders. Monthly reports on such meetings were sento to RKO headquarters. The subject of the meeting was discussed at staff conference. In a year and a half, 382 contacts were made. KHJ-TV also furnished speakers for civic affairs, thus, allegedly, affording station personnel an opportunity to discuss with organization leaders the television needs and desires of their respective groups.

45. As noted in the biographical sketches above, key KHJ-TV personnel are associated with a number of civic organizations. Klein has lived in Los Angeles most of his life and has worked with many civic groups there. Wally Sherwin has lived in Los Angeles 20 years and is involved in youth activities. Allan Moll, as a newsman, is in regular contact with local political figures. With the public affairs director he maintains contact with local civic groups. Mark Davidson, producer of the "Nine on the Line" show, reports regularly on program ideas picked up from community leaders and others, At KHJ - TV telephone and mail comments on programs are digested and sent to the General Manager and to the Program Department. From time to time when a new program is presented, public reaction is solicited from the audience.

46. This then is KHJ - TV's method of ascertaining community need. Assertedly, it grew out of a management meeting held at KHJ - TV in 1962 pursuant to a directive from national headquarters setting forth steps to follow in maintaining community liaison. A staff member was assigned the task of compiling community activities in which the KHJ - TV staff was involved. All RKO personnel were alerted to a corporate policy of paying dues and fees involved in civic participation. A Speakers Bureau was discussed at the meeting and a list of the ten most pressing local civic needs was compiled.

47. Also, in 1962 a committee on community needs was established with an RKO Division Manager for Radio and Television in Los Angeles, as Chairman. One of the members of the committee prepared a survey of the religious community in the area, and a status report of personnel activity in obtaining cooperation with religious groups was also prepared. A list was made of religious groups, together with names, addresses, and telephone numbers. The latter list was circulated among the program staff at KHJ-TV. Later a more detailed analysis of the religious composition of the area was made.

48. In 1963 a management meeting was held for KHJ-TV personnel at which discussion was held on procedures for handling listener reaction and staff-identified area needs. Thereafter KHJ - TV personnel submitted, from time to time, reports on area needs. These reports were exchanged between standard broadcast personnel and television personnel.

49. Advanced as an example of RKO's community-service policy in action is the following incident: In January

1963, Malcolm Klein had lunch with the television chairman of a forthcoming Brotherhood Week observance. After luch, Klein told station personnel about the event and told officials of a sponsoring organization of people at KHJ - TV who should receive news releases on the event. Klein also called to the attention of an RKO executive that a seminer was being held on police and community relations. As an outgrowth of this advice the RKO executive attended the seminar. Thereafter, the executive circulated to RKO program personnel a recommendation that a program should be put on the air relating to racial problems. In the meantime, Klein was advocating by way of memorandum to his staff that a theme of racial tolerance should be a year-round project. Such activity as this culminated in four programs presented over KHJ - TV, once a month, called "Rearing Children of Goodwill".

50. In 1963 KHJ - TV commissioned a college professor to do a monograph on racial problems in the Los Angeles area. In the Fall of 1964 KHJ - TV paid Frank N. Magid Associates $10,000 to survey and prepare a report on the programming opinions of the Los Angeles viewing audience (of which more later). Program audience rating services have also been employed by the station.

51. About ten years ago, a consensus of conglomerate opinion concluded that there was a need for quality motion pictures - especially sophisticated adult films in television prime time. Since that decision, other Los Angeles television stations have been telecasting movies. General Tire and Rubber, RKO and KHJ - TV have, since then, been exploring other sources of television programming.

On the Air Operation

Some Favorable Aspects of KHJ-TV's Programming

Promise vs. Performance

52. During the composite week for the license period December 1, 1962 to November 30, 1965, an analysis of KHJ-TV program logs submitted with its renewal application shows that the station broadcast the following types of programs in the following amounts:

Entertainment (including special language programming)	86.5%
Religious	1.5%
Agricultural	.375%
Educational	3.75%
News	3.375%
Discussion	1.5%
Talks	3.0%

The application filed by KHJ-TV for the renewal period covered in the table above predicted the following:

Entertainment	89.6%
Religious	1.1%
Agricultural	.4%
Educational	2.0%
News	2.9%
Discussion	1.0%
Talks	1.8%
Special language	1.2%

Programming

53. In the next 32 paragraphs are set forth some of KHJ - TV's programs that lay particular claim to serving the public interest. In making its program showing KHJ-TV was not limited to any particular period of time. It will be recalled that the station was acquired by General Tire in 1951. As will be shown later, the station's broadcast day lasts all the way from 16 to 22 hours. Thus, in reading the following paragraphs it might be well to bear in mind that the programs described are extracts from some 100,000 hours of air -time utilization. It will be noted that frequently descriptions of programs or program series are unattended by facts on duration of programs and/or program series. To have excluded programs from findings because of this failure would have been unfair to KHJ-TV. The record leaves no room for doubt that many programs and program series whose duration is shrouded in mystery in the record were in fact broadcast. Accordingly, it is unsave to make assumptions of time span occupied by these programs unless length or duration is specified. It might also be well to remember that even when program length is specified, the inference does not lie that the time period was fully occupied by program material. There is no evidence in the record that KHJ-TV abjured the common station practice of honeycombing program material with spot announcements. There is, similarly, no evidence that in the presentation of motion pictures it failed to eviscerate them and replace unused parts with commercial continuity. As will be seen later, KHJ-TV had lots of commercial spot announcements to locate amid its programing.

Entertainment

54. In the entertainment category, as has already been noted, a staple of KHJ - TV's programming has been the presentation of movies. Some of these claim excellence. Richard III was presented with attendant happenings in celebration of Shakespeare's birthday. A movie series entitled "Cinema IX" included: The Sky Above, The Mud Below; A Taste of Honey; This Sporting Life; Waltz of the Toreadors; Divorce Italian Style; Billy Budd; Two Women; School for Scoundrels; Black Orpheus; David and Lisa; Ballad of a Soldier; The Entertainer; Room at the Top; My Uncle, and Les Miserables. For about a year and a half on each Saturday morning a Spanish language film was aired. A series of plays produced by the British Broadcasting Corporation was carried which included: Julius Caesar; The Rivals. Anna Karenina; Antigone (Alnouilh's); Wuthering Heights; Midsummer Night's Dream; and She Stoops to Conquer. A series called "Play of the Week" included: The Iceman Cometh; World of Sholom Aleichem; Rashomon; Waiting for Godot; Lullaby; The Dybbuk; and Burning Bright. A series, "Spread of the Eagle." another BBC production carried by the station, included adaptations of the Roman plays of Shakespeare

55. KHJ -TV has presented some concerts and operas. In connection with the following programs, the station went to great lenghts in the expenditure of time, effort, and money to carry the programs on tape and in a technically excellent fashion: Promenade Concert -a two-hour concert by the Hollywood Bowl Sympony Orchestra under the direction of Arthur Fiedler and featuring the "Chanteurs de Paris"; An Evening at the Hollywood Bowl. Andre Kostelanetz conducting the Hollywood Bowl Sym-

phony Orchestra in an All -Gershwin Night featuring pianist Earl Wild; An Evening of Opera – a two-hour Hollywood Bowl concert featuring Maurice Abravenal, director of the Utah Symphony Orchestra, and Jan Peerce and Mary Costa, vocalists; Hollywood Bowl Concert – 1965 – a 90-minute program again featuring Andre Kostelanetz leading the Bowl orchestra in an evening of Gershwin Music, with singers Martina Arroyo and Robert Mcferrin and pianist Lorin Hollander.

56. KHJ - TV also aired filmed versions of Verdi's "La Traviata," "Rigoletto," and Puccini's "Tosca"; "An Evening with Theodore Bikel," a taped concert of folk music; and a filmed production of the Red Army Singers and Dancers. On Symphony Orchestra Telecast Benefit, KHJ-TV carried an hour -long concert by the Los Angeles Symphony Orchestra. The Orchestra was conducted by Zubin Mehta and featured Jack Benny.

57. KHJ - TV has also telecast programs in the field of art. At an exhibit of Mexican Art at the Los Angeles Museum, KHJ - TV produced a program on which Vincent Price was featured. The station also produced a program featuring an artist named Leon Saulter. Twice the station carried programs showing the paintings of Harry Lackman. The opening of the UCLA Art Center was signalized by KHJ - TV through a showing of a Matisse exhibit. The "Art and the Dance" was filmed in color by KHJ - TV in an art gallery and presented over its facilities in an effort to show art and dance in single form. A film on the life of Michelangelo was presented, as well as a film on the travels of the Pieta. "Paintings in the White House," narrated by Fredric March, was also carried at KHJ - TV.

58. Popular music and "personalities" were aired by KHJ-TV. 'Cheerio A -Go -Go" was filmed in London especially for the station, The series included ten top English recording acts including the Beatles, The Rolling Stones, and Herman's Hermits. A montage tour of London night life was also included. The production of this series involved an unusual expenditure of money, time, effort and personnel on the part of the station, A program series entitled "Hollywood A -Go -Go" appears to have been a result of the foregoing programs. These latter programs were one hour in length and pioneered teenage discotheque-type television programming. They were carried over KHJ-TV and were later syndicated. "Aloha A -Go -Go," a one-hour program, was filmed in Hawaii. A series of remote programs was presented form the Hollywood Palladium and Moulin Rouge. Top recording stars, Miss Teen USA, and 20 different "bands" were featured. Also presented were "Darin at the Grove", an hour -long program from the Ambassador Hotel in Los Angeles, and "A Salute to Eddie Condon." For a year and a half the station broadcast a live program called "Ninth Street West." This program presented local entertainment groups plus headline guests. It was desgined to appeal to teenagers and young adults and included an audience participation feature.

59. For four years ending in 1964, KHJ -TV annually carried high-lights of the Tournament of Roses Parade. A Flag Day Parade was also carried, as was a Christmas Parade. A sneak preview of the "World Travel Show" was carried. A 90-minute color travelogue film called "Flight of the Magellan" was presented. Those attending a movie preview of "Those Magnificent Men in Their Flying Machines" were aired on KHJ - TV. A half-hour coverage of

the premiere of "Lord Jim" was presented from a theatre lobby and coverage was given to behind the scenes activity in connection with making that movie. One hour coverage was given an antique auto show.

60. In 1964 KHJ-TV broadcast a 19-hour continuous pro- - gram on behalf of the Cerebral Palsy Foundation, The program featured Hollywood celebrities and reception centers set up in nearby communities for the receipt of donations. A similar program was carried in 1965, Since 1960 KHJ - TV has carried live, and exclusively, the Miss California Beauty Pageant.

Children's Programs

61. In the field of children's programs, KHJ - TV broadcast programs both morning and afternoon. Much of this programing has been cartoons and animated subjects with a master of ceremonies urging children to develop such beneficial traits as sound health habits. KHJ - TV also presented motion pictures of especial interest to children. David Copperfield, Oliver Twist, King of the Khyber Rifles, Gunga Din, Kidnapped, A Christmas Carol, The Prince and the Pauper, Gulliver's Travels and Call of the Wild were presented. A two -part film of the Moscow State Circus was shown as was a series of Shirley Temple Films.

Public Affairs

62. Beginning in September 1964, KHJ - TV carried a live, one -hour, afternoon program entitled "Nine On the Line". This program featured station personnel as well as guests, and at times telephone calls from viewers. On the program a variety of subjects was discussed including: Los Angeles racial tensions, social maladjustments and mental

illness, California's local housing referendum, problems of public schools; police review boards, politics, nuclear war, alcoholism, unethical business practices, and activities of the Los Angeles Zoo. Each week the most interesting program was edited and broadcast for one -half hour at night.

63. KHJ - TV has regularly carried Presidential messages and news conferences. Such events as the Kennedy assassination were covered by the station using RKO's own staff. The station has also carried a Los Angeles Mayor's speech to the City Council and the annual message of the Superintendent of Schools. The station carried frequent reports on the Republican Presidential Primary of 1964. Many hours of remote coverafe were given the Republican Presidential Convention in that year. Goodwin Knight and Mort Sahl covered the Convention for the station. "Politics -64," featuring Samuel Lubell, produced by RKO, was a series carried on KHJ-TV in connection with the 1964 Republican Campaign.

64. In December 1962, KHJ - TV began a series of half-hour monthly programs on Sunday afternoon entitled "Project Today," directed at cities within the station's coverage area. Public officials were featured. In 1963 a station newsman was featured in 18 half-hour reports on his travels through the Western Hamisphere. From 1963-65, a series entitled "In Search of a Solution" was carried. The RKO-produced series featured 25 minute -and -a -half to five -minute interviews with various persons on Civil Rights (1963), Presidential Succession (1964) and Communist China (1965). "Viewpoint Washington" was carried from June 1964 to October 1964. An RKO Washington News

Bureau production, this program was broadcast weekly for 21 weeks featuring a panel discussion utilizing members of the Washington press corps. "Ladies of the Press" was a weekly 30-minute program running for 35 weeks produced by the RKO New Bureau, consisting of a panel of wonen journalists interviewing prominent personalities in the news. A "New Year's Special News Roundup" ran for an hour on January 1, 1964, and "Year Past - Year Ahead" ran for the same duration on the last day of the year. Both programs were panel discussions.

65. In March 1965, KHJ - TV expended much time, effort and money in presenting a two -hour program covering the Los Angeles County Museum of Art. Similarly in 1964 KHJ - TV carried one and a half hour coverage of the dedication of the Los Angeles Music Center. KHJ - TV also aired, in connection with the dedication of the Memorial Activities Building at the University of California at Los Angeles, a special program showing details of the building. In 1963 the station broadcast the Diamond Jubilee Banquet of the Los Angeles Chamber of Commerce, and in 1964 broadcast the Orange County Show celebrating the county's similar anniversary. Students from the county participated in the production of the program. In 1964 KHJ - TV broadcast two specially produced half -hour programs, one on the subject "Do I Step In and Intervene or Do I Mind Own Business?"; the other reporting student sit-ins at the University of California. "Joe Dolans's World of People," featuring interviews with prominent people, was carried from Janaruary 1963 to April 1964. At first it was carried weekdays for a half hour, later it was cut back to a monthly basis and finally, intermittently, for 15 minutes. "Now Listen Lady," a live discussion program on women's

affairs, was carried for 15 minutes once a week from May to September 1963. In 1965, Dr. Linus Pauling was on the station for a full hour on a program reporting on a "Pacem in Terris" conference he had attended. In the spring of 1964, a discussion program featuring a local commentator was carried by KHJ - TV daily at midnight for a half hour. In October 1963, the station carried a one-half hour interview program with Madame Nhu. In 1965, a half hour documentary was carried on the State of Israel. A similar program was broadcast in the same year on the fight for freedom in captive nations. The " "Sam Yorty Show," a 90 -minute discussion series featuring the Mayor of Los Angeles, was carried. In 1965, the station broadcast a two -part documentary on the work of the Los Angeles County Attorney's Office. After December 1966 the station telecast a weekly series called "Dateline Campus." The program was produced by a teachers association and a college.

66. Throughout the license period, KHJ - TV carried interviews of five minutes duration on public affairs between interludes of movies. A number of representatives of civic groups were interviewed in this way. The station carried Theodore Granik's "Youth Wants to Know" program, and David Susskind's "Open End". The former program was a half-hour in duration; the latter an hour. KHJ - TV also carried RKO's produced series "Firing Line with William F. Buckley, Jr.", a one -hour discussion program with Buckley interviewing figures in the news. The "Al Capp Show, " a weekly one hour documentary, was also carried.

67. In April 1965, KHJ - TV broadcast a half hour pro-

gram " The Growing Crisis", presenting a controversy over the use of Mexican labor. In 1964, the station carried nine one-hour and three half-hour programs on a "Living Camers" series. These shows covered such subjects as gridiron rivalry, capital punishments, rehabilitation of juvenile groups, rretirement problems of air line pilots and a study of a Moslem leader. Also in 1965, KHJ-TV broadcast programs on "Crime and the Student" and "Inhale -Exhale" (on glue sniffing). In July 1965, the station carried 12 half-hour CBS network programs entitled "You Are There, " a historical series.

68. KHJ - TV carried a series of interviews with the Director of the Los Angeles Zoo who appeared on the program with animals. It also carried a station -produced program called "How the Southland Plays," a tour of Southern California resorts including Disneyland and the Los Angeles Zoo.

69. "The Truth About Communism, " featuring Ronald Reagan, was presented in 1963, and in 1964 the station carried a filmed documentary dealing with the paralysis of freedom of personal choice and the extremes to which conformity is carried out. In 1963, 1964 and 1965 the station presented 20 hour -long filmed programs entitled "Perspective on Greatness" portraying the lives of famous individuals and historical events. A one-hour filmed program called "Operation Moonshot" was aired twice in 1964. A half-hour program entitled "Your Heart and Mine", produced in conjuction with the American Heart Association, was aired by the station. The production highlighted findings presented at the Association's annual meeting.

News

70. KHJ - TV carried some news programs, largely on an irregular basis. Length and frequency varied. A typical day's schedule showed news capsules in the morning and early afternoon, a 5-minute newscast in mid-afternoon, a 15 -minute newscast in the evening, and closing news at the end of the day. All news was edited.

71. The station used AM and FM as well as TV personnel on news. Newscasts normally originated in the newsroom but a camera was set up for bulletin stories on short notice. News programs included news -sound -on -film, silent -film, video -tape, and still -shots. Live shortwave reports also presented over slides or with an on-camera reporter using earphones. This latter technique was sometimes employed in reporting news furnished by other RKO stations or other stations cooperating with RKO.

72. Members of the KHJ-TV news crew regularly covered the Mayor's and the County Board's meetings. Excerpts from "Nine on the Line" and other such excerpts were utilized on its evening newscast. These newscasts have covered special reports on problems such as smog. Information on persons wanted by the FBI and local law enforcement agencies was also regularly broadcast near the close of the day on KHJ-TV.

Special Events

73. KHJ - TV has aired important local events shortly after the events and in doing so preempted regularly scheduled programming. Coverage of the Watts riots was given

live, as well as on film. Shortwave radio and three remote units were employed. Similar coverage was given a dam disaster, forest fires, and a major fire in a movie studio. KHJ - TV employs news "stringers" as sources of local news.

74. The KHJ - TV newsroom has three national and one regional press service and radio monitors covering dispatches of police and fire departments and of the sheriff's office. KHJ - TV News has one mobile unit and shares two others with KHJ-radio. A survey made by a news service showed that in 1966, except for NBC and CBS owned -and -operated stations, KHJ - TV carried more locally produced news that any other station in the market.

75. During 1963, KHJ - TV aired 26 Los Angeles baseball games, the third year of such coverage. During 1963-64, KHJ - TV aired 12 Los Angeles Lakers basketball games' During the same season, five National Hockey League games of the Chicago Blackhawks were telecast. When KHJ - TV lost the contract for major league baseball, it turned to golf and other sports. In 1963, it carried the Frank Sinatra Golf Tournament at Palm Springs and in the same year presented a 90 -minute film of golfing instruction featuring leading professionals. In 1964 it carried the San Diego Open, In 1965, it carried the Phoenix, Houston, and Greensboro Open tournaments, the PGA Open (three matches), the New Orleans PGA, the PGA Million Dollar Golf (two matches). The Haig and Haig Tournament was produced in that year by KHJ - TV. In 1964, KHJ - TV

also presented a 45-minute film for Little Leaguers. In 1965 it carried "The Old Ball Game," a filmed, one -hour. specially commissioned broadcast commemorating the opening of the baseball season. During its last license period, the station carried six hours of special tapes made at the Little World Series in Williamsport, Pennsylvania.

76. In 1963, KHJ - TV carried coverage of the West Coast surfing finals. In 1964, it telecast the Malibu Surf Riding Championship. In May 1965, it carried filmed coverage of a surfing championship competition in Hawaii. The following month, it carried "Strange New Breed," a documentary film on surfing. Also in June it carried 90-minute coverage of a surfing competition Hermosa Beach.

77. KHJ - TV has carried a number of Los Angeles high school championship games in baseball, basketball, track and football. It carried two-hour coverage of the 1963 California Inter-Scholastic Federation Swimming Championships. In 1964 it gave one and a half hours to the same subject. A 75-minute telecast of the 1963 finals of the Los Angeles AAU Swim Meet was carried. KHJ-TV carried four Whittier College Football games in 1964. In October of that year it carried "Olympia 1964," a preview of the Olympics. 'Roaring Wheels," a series of four films on automobile racing, was carried during May 1965. Highlights of the 39th Annual West Coast Relays were filmed and telecast in 1965. Filmed highlights were also shown of the U.S.-Soviet Union track meet. The 1964 NCAA Ski Championships were also carried.

Education

78. During the license period, KHJ - TV broadcast five days a week a series of half-hour instructional programs

entitled "Spectrum." Sometimes these programs were repeated late at night. The programs were originally porduced by Los Angeles State College and later by Los Angeles school systems. The program subjects ranged from the banking system and international economics to nursing and photography. As an additional part of the "Spectrum" series, the following half-hour programming was also presented during the summer of 1963: "The Seminar on American Civilization". "Searchlight on Delinquency"; "Books and Ideas"; "Parents and Dr. Spock."

79. The station also carried a series of programs produced by Los Angeles State College called "Concourse." Featuring a wonan professor, the program sought to examine the concourse of books, youth and ideas. A series of French conservation programs entitled "En France" was also carried. This program was produced in cooperation with Hofstra College. A one-hour documentary film entitled "Invitation from Sam" was produced by the station in cooperation with the city school system. The program showed the numerous recreational activities available to young people in the area.

Agriculture

80. Each Saturday morning during the license period, KHJ-TV carried a regular weekly half-hour series of filmed programs addressed to agriculture. The programs were produced and furnished by the U. S. Department of Agriculture and were entitled "From the Ground Up."

Religion

81. During 1965, KHJ - TV carried four half-hour broadcasts entitled "Rearing Children of Good Will" produced in cooperarion with the National Conference of Christians and Jews. The program featured a number of prominent local civil figures. Also in 1965, KHJ - TV carried "Insight," seven and a half hours of taped dramas produced by a Paulist Father. Prominent Hollywood actors and writers contributed to the program. KHJ - TV has, since May 1963, carried "The Hour of St. Francis," a series of recorded dramas, produced by the Order of St. Francis. Prior to May 1963, the station carried a weekly half-hour religious program entitled "Way of Faith." Beginning in April 1965, it carried a half-hour Sunday series featuring sermons by Dr. Norman Vincent Peale, a program distributed by the Foundation for Christian Living.

82. In 1962, 1963 and 1964, KHJ-TV carried for one hour live coverage of the Christmas Eve services from a local Episcopal Church. On the same day in 1963, it carried a half-hour live program covering a local college Christmas Pageant. On the Sunday preceding and following Christmas, the sermon of a local minister was carried. For Easter in 1963 and 1964, services were carried from a local Episcopal Church. In 1965, the station carried the Los Angeles Choir singing Brahms' Requiem Mass for a local Presbyterian Church. Art work was also shown on this program. Bing Crosby narrated a film for Christmas Eve presentation produced by a Catholic priest and taped by KHJ-TV. The film was carried by all RKO stations including KHJ-TV. During a Christmas season, the station carried Art Linkletter's travels through the Holy Land with

music produced by the Westminster Choir in a program entitled "Christmas in the Holy Land."

83. In 1964, KHJ - TV, for the second year, gave 30-minute coverage to a speech given by a Methodist Bishop at an Annual Bishop's Laymen Luncheon. The station regularly broadcasts short pre-recorded inspirational messages featuring local members of the clergy. These are presented at the beginning and end of each broadcast day.

Special Aspects of KHJ-TV Programming

84. A program series featuring works of art included a broadcast of a Picasso Exhibit at an Art Museum. This was presented in prime evening time. It help promote a large exhibit of Picasso graphic work. The station promoted the sale of Picasso prints and $10,000 was thus realized. The money was turned over to the Art Museum. Later the works of another Spanish artist were exhibited at the Museum, those of Fausta de Lima. As already noted, a film of Marcel Marceau was broadcast. This was a one-hour program produced through the efforts of KHJ-TV. Recently, the film has been offered for syndication by "RKO Productions." KHJ - TV telecast twice in prime time a ballet program. KHJ -TV'manager, together with the prima ballerina, appeared on the program to encourage like cultural undertakings. During May 1967 KHJ - TV operated as a key station in the incipient, but eventually unsuccessful, network called "United" by carrying a program called "The Las Vegas Show." A series of 14 one-hour -per -week programs called "Therapy" was carried over KHJ - TV. The series was financed and produced

by KHJ - TV and was presented over the station in prime time. The programs were produced under the supervision of qualified psychologists and psychoanalysts. On weekdays for about six weeks KHJ - TV carried, for 15 minutes, a speech correction program. The program originated with a local college, Pepperdine. The programs were also later carried on the local educational station.

85. The series "Dateline Campus," see paragraph 65 above, was aimed at showing the community the services performed by a state college system. "On the Scene," a one-hour documentaru presented twice weekly during prime time, was intended to cover community activities. "Boss City," the weekly, live, teenage participation program, was designed to help bridge the generation gap. "Reporter at Large" featured during prime time excerpts, regarded as best, from the "Nine on the Line" program. The William Buckley program was produced by the station. KHJ - TV was the first area station to carry soccer games, the Los Angeles Toros, during their first season. An open-air amphitheatre operated by the City of Los Angeles has been promoted by the station through interviews with the director and featured performers.

Announcements of Civic, Charitable and Governmental Activities

86. Unpaid announcements on behalf of non-commercial interests were carried by the stations. In 1964 and 1965, 4,937 and 9,453 such announcements were, respectively, broadcast. During July 18-20, 1963, the station urged the public not to look at the eclipse of the sun directly because of the possibility of eye injury.

Expenditures for Programs

87. KHJ-TV has made a considerable effort to gain a share of the Los Angeles television market. Its expenditures for station operation have increased from 9 or 9-1/2% of the Los Angeles television stations' total for such expenditures during 1957 -1962 to 13.1% of the total in 1963, 11.5% in 1964 and 12.2% in 1965. Program expenses have risen from 30% of total expenses in 1952 to 61% in 1965. Considerable sums of money have been spent by KHJ - TV on programming. In the past six years it has contracted for 20 million dollars worth of programming. Its features film library cost $14 million. Some of its local programming has been expensive. Coverage of each Hollywood Bowl program has cost the station about $30,000. Cost of coverage of City Council meetings and the Mayor's press conference has run in the neighborhood of $1500 to $2000 for each such broadcast.

Audience

88. Although KHJ - TV has succeeded in making no appreciable gain in winning audience during prime evening viewing hours, it has won some audience in the Los Angeles market after 5:00 p.m. as indicated by this table which covers audieince trends for the period 1962-1966.

Time Period	*Los Angeles Market*	*KHJ-TV*
5:00 p.m. - 7:30 p.m.	+38%	+60%
7:30 p.m. - 11:00 p.m.	+26%	+25%
11:00 p.m. - Midnight	+24%	+56%

Favorable Reactions to KHJ-TV Operations

89. There are people in Los Angeles who speak favorably about KHJ - TV. In the indented material below their comments are summarized.

William Severns is the Chief Administrator of the Music Center in Los Angeles. He says KHJ - TV is "probably" the leading local station in popularizing and financing symphonic concerts in Southern California.

Talmadge L. Reed is Deputy of the Los Angeles County Museum of Art. He believes KHJ - TV is doing an excellent job in presenting art by means of television.

Eddie Albert is a movie actor and commercial television personality. He believes a great deal of expense, effort and concern is required to present such programs as KHJ-TV's coverage of the opening of the Art Museum. He participated in that program.

Dr. James Loper is Vice President of Community Television of Southern California, and General Manager of educational station KCET. He states that KHJ - TV has cooperated in the production of educational programs and has been friendly to KCET. KHJ - TV was the only Los Angeles station willing to provide free time for the "Spectrum" series. He believes such programs as "the arts" and "Hollywood Bowl" to be "unequalled". The station has assisted KCET with financial and other aid. He believes there is a place in the community for a station specializing in movies. He thought KHJ-TV's presentation of a news program during mid-evening hours a unique service.

Father Elwood Kieser is National Director of Radio and Television for the Paulist Fathers. He believes KHJ - TV's presentation of his program "Insight" in prime evening time free, reflects a policy of community service and dedication. It was the first station in the country to make the presentation. He believes the station to be imaginative and to serve artistic, educational and cultural interests. It has a good reputation by reason of such programs as "Nine on the Line."

Louis Arnold Pike is Radio and Television Coordinator for the California Teachers Association, Southern Section. He believes KHJ - TV's "Spectrum" and "Dateline Campus" programs, which his organization helped produce and present, served needs in the area. Few schools are equipped to produce television programs and must depend on stations for such production. KHJ -TV at one time offered air time which could not be utilized by his association.

Arthur Knight is Professor of Cinema at U.S.C. He likes the mechanics of KHJ - TV's presentation of motion pictures. He found cultural merit in the station's film library. He thought pictures presented during the station's most recent license period "splendid." In the professor's opinion, release date of movies is of no significance. Many of KHJ-TV's old movies have been excellent. Psychiatrists and critics have divergent opinions on movies. He opposed government interference in television station programming.

Bruce Robertson was once with Broadcasting Magazine covering the activities of West Coast stations. In his experience KHJ - TV's coverage of the Hollywood Bowl and art programs has been unique, In his view the station has been

imaginative in the use of motion pictures in a broadcast schedule.

Goodwin J. Knight is a former Governor of California. In his opinion, public affairs programs have been presented in a fair and impartial manner over KHJ - TV. He believes the station has an excellent reputation for serving the Los Angeles area public.

Joseph M. Quinn is Deputy Mayor of Los Angeles and Chairman, Los Angeles County and Cities Civil Defense Commission. He owns the City News Service. In his opinion KHJ - TV has carried programs on city government, aided civil defense, and has been fair and professional in covering news.

Inspector Edward Walker is Press Relations Officer for the Los Angeles Police Department. In his opinion KHJ - TV has been cooperative with the Police Department. He believes station representatives are interested in the community and law enforcement and that KHJ-TV has a good reputation in the community for responsible performance.

John J. O'Mara is Vice President of an advertising bureau. He believes KHJ - TV has a good reputation for serving viewers, community organizations without program imbalance and without impairing other stations' acquiring special use television. In his view it would be a waste of spectrum space for a Los Angeles frequency to be assigned to Orange County.

Dennis F. Shanahan is an advertising agency executive. On the basis of his considerable experience in advertising, he

has found KHJ - TV to have a good reputation, better than many stations, for responding to community program needs, interests and desires. The station's major strengths are mature movies, "Lively and reasonably literate" youth shows, "responsible" public affairs programs, good specials and responsible, imaginative people [staff] willing to become involved with advertisers. In his opinion such weaknesses as KHJ - TV has are generic to independent stations.

Dr. Wesley A. Young is Director of the Los Angeles Zoo. KHJ - TV has given him, and the Zoo, more air time than any televisions station except one where he appeared as paid talent.

Lawrence E. Houston is a Los Angeles school official., He noted that KHJ - TV has cooperated with the school system in presenting educational programs including "Spectrum," as well as some high school sports. There is considerable movement of school population in the Los Angeles area. In his opinion KHJ - TV's programs have served the entire area.

Awards

90. During 1963-66 KHJ -TV received the following awards or commendations. Academy of Television Arts and Sciences (Hollywood Chapter): 1964, "Emmy" for Hollywood Bowl telecast "Evening with Gershwin"; 1965, "Emmy" award for Hollywood Bowl telecast "Operatic Night"; 1966, "Emmy award for "Gershwin Concert". National Association for Better Broadcasting: Best entertainment on regional television, 1963, for "An Evening with Gershwin" and BBC Drama Series; nominated KHJ-TV for Peabody Award for "Impressions" program. Los Angeles City Council, 1963: Passed resolution commending KHJ and KHJ-TV for presenting the Mayor and Council's review of the City. Municipal Art Commission, 1963: Special award for cultural contribution for program "Symphony Under The Stars." Mayor Yorty 1964: Commendation for presentation of programs from Hollywood Bowl, Los Angeles Music Center and Los Angeles County Museum. In addition to the foregoing awards and commendations KHJ-TV lists approximately 44 more conventional citations from various groups, as well as numerous individual letters of commendation from civic leaders and viewers of the station in general.

Some Not So Favorable Aspects of KHJ-TV's Programming

Commercialization

91. Much of KHJ-TV's air time is devoted to the presentation of advertising. The station has no policy limiting the amount of advertising it will present. It does limit to 25% the amount of time it will carry commercial announcements during a half-hour period but permits the 25% to be averaged over a two-hour period. This allows, theoretically at least, 30-minute time segments to be devoted exclusively to purely commercial matter. In addition to program sponsorship, KHJ-TV sells 10, 20, 60, 90 second, and on occasion even longer, commercial spot announcements. About 60% of the station's total revenue comes from the

sale of national advertising. That business is handled by RKO's own national sales organization. During the 1965 composite week KHJ-TV reported presentation of 1132 commercial spot announcements. Its application for renewal estimates that its next renewal application would show 1430 such announcements.

92. For the 1965 composite week there were 117 14½ minute time segments during which two spot announcements were presented on KHJ-TV, 115 during which three were presented, 57 during which four were presented, and 52 during which five or more were presented. 88 spot announcements exceeded one minute in length.

Movies and Other Programming

93. The time between commercial announcements at KHJ-TV is, by and large, occupied by movies. Many of these are old, many are repeated and many feature crime.

94. Set forth below is the program schedule of KHJ-TV for the 1965 composite week. It is to be remembered that 1132 spot announcements of varying length were woven into the schedule.

Sunday, May 24, 1964

Time	*Title*	*Source*[3]	*Type*
7:59 A.M.	Sign On		
8:00	Sunday Big Babysitter (The Winner)	RC	Ent

[3] Legend — For all practical purposes "R" means film or filmed (recorded); "C," commercial; "S," non-commercial (sustaining); "Rel," religion; "Ent," entertainment; "Dis," discussion; "Ed," educational; "Ag," agriculture; "L," live.

Time	*Title*	*Source*	*Type*
9:00 A.M.	Sunday Theatre	RC	Ent
10:30	Ladies of the Press	RC	Talk
11:00	Our Miss Brooks (Boynton Play Acts)	RC	Ent
11:30	Million Dollar Movie (Man Who Knew Too Much)	RC	Ent
3:30 P.M.	Colgate Sunday Matinee	RC	Ent
5:00	Family Theatre (Young At Heart)	RC	Ent
6:30	Maverick (Greenbacks Unlimited)	RC	Ent
7:30	Theatre Nine (Gorgo)	RC	Ent
9:15	Theatre Nine News	LC	News
9:30	People Are Funny	RC	Ent
10:30	Encore (Indian Fighter)	RC	Ent
12:15	Sign Off		

Monday, February 17, 1964

7:38 A.M.	Sign On		
7:39	Devotional	LS	Rel
7:45	Cartoonsville	RC	Ent
8:00	Pancake Man	RC	Ent
8:30	The Big Babysitter (film)	RC	Ent
9:00	King and Odie	RC	Ent
9:15	Big Babysitter (Cont'd)	RC	Ent
10:00	News Headlines	LS	News
10:01	The Coffee Break (Film: Down Three Dark Streets)	RC	Ent
11:30	News Headlines	LS	News
11:31	Spectrum/L.A. State College (Latin Am: The Conquest)	RS	Ed

Time	*Title*	*Source*	*Type*
12:00 P.M.	News Headlines	LS	News
12:01	Searchlite/Delinquency (Eastern Wisdom)	RS	Dis
12:30	New Headlines	LS	News
12:31	Mr. District Attorney	RC	Ent
1:00	Cartoonsville	RC	Ent
1:45	Feature Page	LC	News
2:00	Million Dollar Matinee (Film: Born to Kill)	RC	Ent
2:01	Interview Sid Goldman (10")	LS	Talk
3:38	Interview Dr. Norman V. Peale (8")	LS	Talk
3:46	Interview Elizabeth Scott (4")	LS	Talk
3:50	Matinee News	LC	News
4:00	Mighty Hercules	RC	Ent
5:00	Engineer Bill	RC	Ent
6:00	The Bowery Boys (Paris Playboy)	RC	Ent
7:00	People Are Funny	RC	Ent
7:30	Dobie Gillis (Wedding Bell Toll)	RC	Ent
8:00	Million Dollar Movie (Film) (The Codlitz Story)	RC	Ent
9:45	Clete Roberts News	LC	News
10:00	The Big Show (Film: Bright Leaf)	RC	Ent
12:03 A.M.	Clete Roberts News	LC	News
12:19	The Second Show (Film: Down Three Dark Streets)	RC	Ent
1:49	Spectrum (Latin Am: The Conquest)	RS	Ed
2:17	Suspects Wanted	LS	News
2:19	Devotional	LS	Rel
2:25	Sign Off		

Tuesday, April 7, 1964

Time	*Title*	*Source*	*Type*
7:38 A.M.	Sign On		
7:39	Devotional	LS	Rel
7:45	Cartoonsville	RC	Ent
8:00	Pancake Man	RC	Ent
8:30	The Big Babysitter (Film)	RC	Ent
9:00	King and Odie	RC	Ent
9:15	Big Baby Sitter (Cont'd)	RC	Ent
10:00	News Headlines	LS	News
10:01	The Coffee Break (Film: Young Stranger)	RC	Ent
11:30	News Headlines	LS	News
11:31	Spectrum/L.A. State College (Home Nursing, Health Career Opportunities	RS	Ed
12:00 P.M.	News Headlines	LS	News
12:01	All America Wants to Know (Bomber Nobody Can Stop)	RS	Dis
12:30	News Headlines	LS	News
12:31	The First Show (Film: Mr. Blandings Dream House)	RC	Ent
2:00	Million Dollar Matinee (Film)	RC	Ent
2:12	Interview Jack E. Leonard (10")	LS	Talk
3:37	Interview Candy Johnson (6")	LS	Talk
3:43	In Search of a Solution (2")	RS	Talk
3:45	Feature Page	LC	News
4:00	Mighty Hercules	RC	Ent
5:00	Engineer Bill	RC	Ent
6:00	Sugarfoot	RC	Ent

Time	*Title*	*Source*	*Type*
7:00 P.M.	People Are Funny	RC	Ent
7:30	The Deputy (Chain of Action)	RC	Ent
8:00	Million Dollar Movie (Film – Last Outpost)	RC	Ent
9:45	Clete Roberts News	LC	News
10:00	The Big Show (Film: Gun Crazy)	RC	Ent
11:46	Clete Roberts News	LC	News
12:00 A.M.	Michael Jackson	LC	Talk
12:28	The Second Show (Film: Young Stranger)	RC	Ent
2:00	Spectrum/La State College (Home Nursing, Health Career Opportunities)	RS	Ed
2:30	Suspects Wanted	LS	News
2:32	Devotional	LS	Rel
2:37	Sign Off		

Wednesday, March 11, 1964

7:39 A.M.	Sign On		
7:40	Devotional	LS	Rel
7:45	Cartoonsville	RC	Ent
8:00	Pancake Man	RC	Ent
8:30	The Big Babysitter (Film)	RC	Ent
9:00	King and Odie	RC	Ent
9:15	Big Babysitter (Cont'd)	RC	Ent
10:00	News Headlines	LS	News
10:01	The Coffee Break (Film: Adventures of Capt. Fabian)	RC	Ent
11:30	News Headlines	LS	News
11:31	Spectrum/L.A. State College (Latin Am: WW II)	RS	Ed

Time	*Title*	*Source*	*Type*
12:00 P.M.	News Headlines	LS	News
12:01	Community of Condemned	RS	Dis
12:30	News Headlines	LS	News
12:31	The First Show (Film: Annie Oakley)	RC	Ent
2:00	Million Dollar Matinee (Film) (Edge of Darkness)	RC	Ent
2:01	Interview Dr. William Bryan (9")	LS	Talk
3:37	Interview Allan Jones (7")	LS	Talk
3:45	Feature Page	LC	News
4:00	Mighty Hercules	RC	Ent
5:00	Engineer Bill	RC	Ent
6:00	Follow the Sun (Inhuman Equation)	RC	Ent
7:00	People Are Funny	RC	Ent
7:30	Dobie Gillis (3 mil. Coins in the Fountain)	RC	Ent
8:00	Million Dollar Movie (Film: Boy On A Dolphin)	RC	Ent
9:45	Clete Roberts News	LC	News
10:00	The Big Show (Film: Love in the Afternoon)	RC	Ent
12:04 A.M.	Clete Roberts News	LC	News
12:20	The Second Show (Film: Adventures of Capt. Fabian)	RC	Ent
1:46	Spectrum (Latin America: WW II)	RS	Ed
2:16	Suspects Wanted	LS	News
2:17	Devotional	LS	Rel
2:21	Sign Off		

Thursday, October 17, 1963

Time	*Title*	*Source*	*Type*
7:39 A.M.	Sign On		
7:40	Devotional	LS	Rel
7:45	The Big Babysitter	RC	Ent
9:00	King and Odie	RC	Ent
9:15	The Big Babysitter (Cont'd)	RC	Ent
10:00	News Headlines	LS	News
10:01	The Coffee Break (Berlin Express)	RC	Ent
11:30	News Headlines	LS	News
11:31	Spectrum/L.A. State College (Art of Theatre)	RS	Ed
12:00 P.M.	News Headlines	LS	News
12:01	Books and Ideas	RS	Dis
12:30	News Headlines	LS	News
12:31	Mr. District Attorney	RC	Ent
1:00	Cartoonsville	RC	Ent
1:45	Feature Page	LC	News
1:48	Interview Johnny Green (7")	LS	Talk
2:00	Million Dollar Matinee	RC	Ent
2:01	Interview Roland Rath (5")	LS	Talk
3:34	Herb Allen (6")	LS	Talk
3:40	Late Afternoon News	RC	News
3:45	Mighty Hercules	RC	Ent
4:30	Engineer Bill	RC	Ent
5:30	The Funny Company	RC	Ent
6:00	The Lone Ranger (The School Story)	RC	Ent
6:30	Our Miss Brooks (Kritch Cove)	RC	Ent
7:00	People Are Funny	RC	Ent

Time	*Title*	*Source*	*Type*
7:30 P.M.	Dobie Gillis (Taken to Cleaners)	RC	Ent
8:00	Million Dollar Movie (Fabulous World of Jules Verne)	RC	Ent
9:43	Special Featurette	LC	Ent
10:00	Clete Roberts News	LC	News
10:30	The Big Show	RC	Ent
12:00 A.M.	The Second Show	RC	Ent
1:30	Spectrum (Art of Theatre)	RS	Ed
1:58	Suspects Wanted	RC	News
2:00	Devotional	LS	Rel
2:05	Sign Off		

Friday, June 5, 1964

7:40 A.M.	Sign On		
7:41	Devotional	LS	Rel
7:45	Cartoonsville	RC	Ent
8:00	Pancake Man	RC	Ent
8:30	The Big Babysitter (Film)	RC	Ent
9:00	King and Odie	RC	Ent
9:15	Big Babysitter (Cont'd)	RC	Ent
10:00	News Headlines	LS	News
10:01	The Coffee Break (Film: The First Yank Into Yokyo)	RL	Ent
11:30	News Headlines	LS	News
11:31	Spectrum/L.A. State College (Focus on America thru Art)	RS	Ed

Time	*Title*	*Source*	*Type*
12:00 P.M.	News Headlines	LS	News
12:01	Hour of St. Francis (The Terrible Gift)	RS	Rel
12:30	News Headlines	LS	News
12:31	The First Show (Film: The Judge Steps Out)	RC	Ent
2:00	Million Dollar Matinee (Film)	RC	Ent
2:01	Interview Frank Tallman (9")	LS	Talk
3:39	Interview Francis H. Tuchnan (5 min.)	LS	Talk
3:45	Feature Page	LC	News
4:00	Mighty Hercules	RC	Ent
5:00	Engineer Bill	RC	Ent
6:00	Maverick (Hostage)	RC	Ent
7:00	Abbott and Costello (Bank Holdup)	RC	Ent
7:30	The Deputy (The Hidden Motive)	RC	Ent
8:00	Million Dollar Movie	RC	Ent
9:45	Clete Roberts News	LC	News
10:00	The Big Show (Fort Apache)	RC	Ent
11:49	Clete Roberts News	LC	News
12:07 A.M.	Michael Jackson	LC	Talk
12:38	The Second Show (First Yank Into Tokyo)	RC	Ent
2:05	The Late Feature (Boy With Green Hair)	RC	Ent
3:27	Spectrum (Focus on Am. thru Art)	RS	Ed
3:56	Suspects Wanted	LS	News
3:57	Devotional	LS	Rel
4:01	Sign Off		

Saturday, November 16, 1963

Time	*Title*	*Source*	*Type*
7:55 A.M.	Sign On		
7:55	Devotional	LS	Rel
8:00	From the Group Up (Men, Women and Children)	RS	Ag
8:30	CineMexicano	RC	Ent
10:00	The Saturday Movie (Capt. Sirocco)	RL	Ent
11:30	I Led Three Lives	RC	Ent
12:00 P.M.	Million Dollar Movie (The Ring)	RC	Ent
1:43	Frank Carroll News	LC	News
2:00	Action (Open Clip Action)	RC	Ent
3:18	Bush Country	RC	Ent
3:30	Championship Bowling	RC	Talk
4:30	Sugarfoot (Shepherd With Gun)	RC	Ent
5:30	Bowery Boys (In The Money)	RC	Ent
6:30	The Deputy (Marked For Bounty)	RC	Ent
7:00	Shirley Temple	RC	Ent
8:30	Sat. Night Special (Land of Pharaohs)	RL	Ent
10:30	The Big Show	RL	Ent
12:25 A.M.	Impact (Passage West)	RC	Ent
1:55	Triple Feature (Death of a Scoundrel, Saints Double Trouble and Stromboli)	RC	Ent
6:00	Devotional	LS	Rel
6:04	Sign Off		

95. The amount of time devoted to syndicated or feature film presentations at KHJ-TV during the 1965 composite week is set forth in the table below:

	Hours	*Minutes*
Sunday, May 24, 1964		
Film Time	15	30
Total Broadcast Time	16	16
Monday, February 17, 1964		
Film Time*	14	59
Total Broadcast Time	18	47
Tuesday, April 7, 1964		
Film Time*	14	58
Total Broadcast Time	18	59
Wednesday, March 11, 1964		
Film Time*	15	12
Total Broadcast Time	18	42
Thursday, October 17, 1963		
Film Time*	15	17
Total Broadcast Time	18	26
Friday, June 5, 1964		
Film Time*	16	22
Total Broadcast Time	20	21
Saturday, November 16, 1963		
Film Time	21	23
Total Broadcast Time	22	09
Summary		
Film Time	113	41
Total Broadcast Time	133	40

*Includes one-half of program time for cartoon shows which feature a live master of ceremonies.

96. Of the films presented by KHJ-TV during the composite week, as announced by the Los Angeles Times, 24 were released during the 1950's and 16 in the 1940's and 1930's.

97. With a single exception, the foregoing six paragraphs will serve to present a picture of how KHJ-TV, day-in day-out, and, in-the-overall, has utilized its air time. There is additional evidence in the record covering the station's programming during the week of August 10-16, 1962, the 1964 composite week, the week of October 17-23, 1965, the week of December 23-29, 1966, and the weeks March 31-April 16, 1967. No useful purpose would be served by findings on the additional data. Such a showing would make no appreciable difference in the image of KHJ-TV programming already developed, and would only elongate this perhaps already too long decision.

Crime and Violence

98. The one feature of KHJ-TV's programming that is not adequately covered thus far is the station's practice of presenting movies featuring crime and violence. As one for findings, the subject is not without difficulty. Besides ever recurrent First Amendment problems attendant upon examination of the substantive content of any radio or television programming, there are two schools of thought on the social desirability of television shows featuring crime and violence. One of these schools claims that a diet of such vicarious experience is just what we all need, for it purges us of our innate criminal propensities. The other school simply views such programming as a college

for criminal knowledge. Be that as it may, the record shows that KHJ-TV did show a lot of movies featuring crime and violence, and that an appreciable body of opinion out of the station's audience strongly protested this practice. While to the imaginative the tip of the iceberg under discussion may show through in the 1965 composite week findings made above, the subject warrants amplification and to cover it requires going outside the limits of the 1965 composite week.

99. In a report of the National Association for Better Radio and Television Broadcasting covering KHJ-TV's programming for the week beginning August 10, 1962 (see paragraph 104, infra), the Association included a statistical table. The table reads in its entirety:

*"CRIME STATISTICS**

KHJ-TV's crime statistics for the week included:

Murders	181
'Justifiable' killings	55
Attempted murders	98
Kidnappings	8
Shootings (victims wounded)	19

Additionally there were many instances of extremely brutal beatings, and assorted cases of arson, robbery, false arrests, dynamiting, extortion, and attempted lynching.

*In fairness to the station, we must point out that the claim portrayed statistics reported here are probably substantially higher than they would be for other weeks of programming. Million D Movie ('Jamaica Run' and 'Hell's Island' – nine showings between the two films) is not always crime in its story theme. Also, the 'Baby Face Nelson' promos, which added heavily to the 'murder' statistic can scarcely be typical of promos aired in other weeks."[4]

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[4] "Promo" – promotional announcement, an announcement advertising forthcoming feature.

100. Between July 1, 1963 and December 31, 1963, these movies were shown one or more times over KHJ-TV:

Title	*Times Shown*	*Dates of Showing*
Adventures of Capt. Fabian	2	8/12/63; 11/9/63
All This and Heaven, Too	3	7/25/63; (2) 10/21/63
Androcles and the Lion	2	7/20/63; 12/25/63
Angel Face	2	11/18/63; 12/21/63
Angels With Dirty Faces	3	7/24/63; 12/7/63; 12/2/63
Anna	1	11/1/63
Anna Karenina	1	7/24/63
Anna Lucasta	1	8/10/63
Armored Car Robbery	3	8/31/63; (2) 11/22/63
Baby Face Nelson	1	7/27/63
Bermuda Affair	9	(9) Week of 8/26/63
Best of the Badmen	2	8/24/63; 11/25/63
Big Sleep, The	1	7/31/63
Big Wheel, The	1	10/26/63
Blackbeard the Pirate	1	10/27/63
Black Tuesday	1	9/10/63
Born to be Bad	3	(2) 11/19/63; 12/21/63
Born to Kill	3	7/21/63; 10/11/63; 12/28/63
Bowery to Bagdad	1	12/28/63
Bright Leaf	1	9/27/63
Caught	1	11/17/63
Come Fill the Cup	1	11/17/63
Confidential Agent	1	9/23/63
Damned Don't Cry	1	10/26/63
Destination Murder	1	11/20/63
Eighteen and Anxious	1	8/14/63

Title	*Times Shown*	*Dates of Showing*
Eve of St. Mark, The	1	10/30/63
Female Jungle	2	11/20; 10/19
Fighting Trouble	1	10/19/63
Flesh and the Spur	3	(2) 8/20; 12/14
Flight for Freedom	2	10/7/63
Forbidden Island	1	10/31/63
Forever Amber	1	11/23/63
Fountainhead, The	1	10/11/63
Gambling House	1	12/7/63
Gangster, The	1	10/21/63
Gang-Busters	4	9/3/63; (2) 11/6/63; 12/7/63
Ghost and Mrs. Mires, The	1	9/12/63
Girl in Every Port, The	1	9/28/63
Golden Mistress, The	1	10/3/63
Gun Battle at Monterey	1	8/24/63
Half Breed, The	2	8/19/63; 11/27/63
Hell to Eternity	1	12/7/63
Hells Island	2	(2) 10/30/63
Herod the Great	1	7/20/63
High Sierra	1	9/16/63
Humoresque	1	8/28/63
I, Mobster	1	7/13/63
Impact	1	10/27/63
Indian Fighter, The	9	(9) 10/28/63
Johnny Apollo	2	8/28; 11/10/63
Kiss Before Dying, A	1	7/21/63
Land of the Pharaohs	1	10/16/63
Left Handed Gun, The	1	11/24/63
Letter from an Unknown Woman	1	11/30/63

Title	*Times Shown*	*Dates of Showing*
Look in Any Window	10	(9) week of 8/2/63; 11/25/63
Las Vegas Story	2	(2) 11/21/63
Love in the Afternoon	1	9/22/63
Lure of the Sila	1	10/6/63
Macao	2	7/3/63; 11/30/63
Manhandled	3	8/18/63; (2) 11/12/63
Monkey on My Back	1	9/17/63
Montana Belle	3	8/21/63; (2) 11/27/63
Moulin Rouge	1	10/19/63
My Forbidden Past	11	(9) week of 12/2/63; 11/7/63; 12/8/63
My Gun Is Quick	1	10/2/63
Murder Without Tears	1	8/31/63
New York Confidential	2	8/17/63; 11/1/63
Night of the Hunter, The	2	10/2/63; 12/31/63
Out of the Fog	2	(2) 9/27/63
Outpost to Morocco	2	(2) 9/17/63
Outrage	1	11/29/63
Payment on Demand	1	7/26/63
Private Affairs of Bel Ami, The	1	11/27/63
Problem Girls	1	11/5/63
Quicksand	2	12/6/63
Quiet Gun, The	4	(2) 7/30/63; 10/26/63; 12/6/63
Rancho Notorious	3	7/25/63; 8/23/63; 11/4/63
Red River	1	11/28/63
Return to Paradise	1	10/4/63
99 River Street	2	(2) 9/26/63
Road House	1	12/7/63

Title	*Times Shown*	*Dates of Showing*
13 Rue Madeline	3	(2) 8/9/63; 11/24/63
Ruthless	1	12/7/63
Star, The	1	11/1/63
Susan Slept Here	2	9/5/63; 11/7/63
They Won't Believe Me	1	12/26/63
Things to Come	9	(9) week of 11/18/63
Three Bad Sisters	1	9/6/63
Three Husbands	1	7/15/63
Three Sailors and a Girl	9	(9) week of 9/30/63
Track of the Cat	1	9/24/63
Tuttles of Tahiti	2	(2) 12/24/63
Underground	2	(2) 9/3/63
Valerie	1	7/6/63
While the City Sleeps	2	9/8/63; 12/12/63
Wuthering Heights	1	8/29/63
Yes, My Darling Daughter	2	(2) 7/18/63
Young Guns, The	1	11/18/63

101. "Jack the Ripper" was televised eight times over KHJ-TV during the week of July 6, 1964.. "Pretty Boy Floyd" was presented at 7:30 p.m. on Sunday, July 12, 1964. During the week of September 21, 1964, the "House of Wax" was presented five times at 7:30 p.m., at noon on Saturday, and at 11:30 a.m. and 1:30 p.m. on Sunday.

102. In a press release dated July 30, 1964, the National Association for Better Radio and Television announced that it had prepared a report on crime programs on Los Angeles television stations which was available to the public at the

headquarters of the organization. The report contained synopses of KHJ - TV's representation of "Jack the Ripper" and "Pretty Boy Floyd." Those summaries read as follows:

"JACK THE RIPPER" - featured film televised eight times during the week beginning July 6 (Monday) by KHJ - TV, Channel 9, owned by RKO General, Inc.

Following the opening scenes which portray the stabbing to death of a of a girl in a dark corner of a London street, the station announcer says: "You are about to witness one of the most terrifying films ever produced."

The first murder (and others to follow) was committed by an unidentified sadist who first accosted the victim, choked her until almost unconscious, then stabbed her in the abdomen with a long-bladed knife or scalpel which he takes from his physician's black bag. The murder was portrayed with screams, gasping sounds, and moans. The camera in this scene of murder, as well as those which follow, holds close-up views of the at first terrified and then contorted face. The murder scene is long and drawn out. Close-up on knife blade after it is pulled from the girl's body.

Other incidents of violence, including the attempted mob murder (with a knife) of a young American detective, are followed by another brutal sadistic attack on a barmaid. The camera holds a close-up view of the face of the girl as she is choked and then stabbed (shown in silhoutte) three times.

A surgeon of the "Mercy Hospital for Wonen" examines the body in the street. He plans to do a post-mortem and tells a group: "Let's get this thing out of the street." He laughs. There is further mob violence. In the morgue at the hospital the surgeon's description of the body is this: "Bruises on the neck, Deep-seated multiple abdominal incisions inflicted by someone who knew what he was

doing. These wounds are not the savage slashings of a maniac. They are careful well-defined abdominal incisions that show a knowledge of anatomy and surgery."

There is a long attempted rape sequence in a private room of an unsavory nightclub. The girl escapes after having part of her dress torn off. She runs into the street, where the Ripper accosts her. She is murdered in the same manner as the previous victims. During the break for commercials the announcers says: "Brace yourself for more terrifying moments coming up."

As following sequence covers a mob attack on a mute who is suspected of being the Ripper. (This mute, apparently mentally retarded, is the assistant to the surgeon when he operates.)

Another girl is murdered - sound effects and camera close-up as in the preceding murders.

We now discover the identity of the Ripper. He is the surgeon. He is searching for a girl named Mary Clark, a former prostitute whom he thinks is responsible for the suicide death of his son. He finds Mary Clark and traps her in her room. He murders her in a long, graphic murder scene. Close-up on her face as she is stabbed.

The Ripper murders a guard at the hospital. He stabs the unsuspecting guard. The police come upon the doctor as he is performing an autopsy in the morgue. He attempts to get away, and is trapped in an elevator shaft. The elevator descends slowly to crush his body at the botton of the shaft. He screams, moans, and sweats as the elevator comes down on him. The camera shows the elevator floor.

Blood bubbles up through the cracks in the floor as the Ripper is crushed beneath it.

SUMMATION: The picture shows in graphic picture sound, the details of the murders of five young women. It shows two attempted murders by mob violence. It includes the brutal stabbing of the hospital guard, and the crushing to death of the villain. It portrays terror throughout, in settings which include low-type clubs, the hospital morgue, and dark alleys.

Each of the eight showings during the week were televised at times particularly available to children and youth. The evening telecasts began at eight p. m. The Saturday showing was at noon. The two Sunday telecasts covered the period between 11:30 a. m. and 3:30 p. m. The Saturday showing immediately followed a program specifically addressed to children.

NOTE: The showings were followed by a one-minute filmed promotional "trailer" for the film Pretty Boy Floyd. This trailer illustrated the gang killing, by three men with machine guns, of four police officers and the criminal they were guarding.

"PRETTY BOY FLOYD" - Feature film (one hour 45 minutes) presented Sunday, July 12, 1964, beginning at 7:30 p. m.

This is a film which allegedly depicts the life of the hoodlum killer, Pretty Boy Floyd. It is largely concerned with the graphic presentation of 13 brutal murders, two "justifiable" killings, a number of attempted murders, three robberies, and other incidents of extreme violence.

Near the opening of the picture the wife of man Floyd has viciously beaten wants him (Floyd) to run off with her. SHe says: "Everybody knows about us. Why can't we blow this crummy town."

The wife says: "Mike's going to be gone a whole week." She gives Floyd $262 of Mike's (her husband's) and says: "Just kiss me, Pretty Boy."

Floyd murders a man who has killed his father by burning him to death in a barn in Oklahoma.

Floyd, after being sentenced from 12 to 15 years for his part in a bank robbery, escapes.

Floyd meets a new partner and a woman (Ma Parks) in Kansas City. Two swindlers who live in Ma Park's boarding house, leaving their wives, as Ma Parks says: "to entertain themselves as best they can." When these two characters return they enlist their wives in a plot to turn Floyd over to the police to get the reward money. One of the wives tells Floyd. Floyd and his pal kidnap the two swindlers and execute them gangland style. The two wives run off with Floyd and his partner. They murder a policeman in uniform. Floyd's pal is killed. Hiding out in Oklahoma, Floyd murders a sheriff who finds him. Floyd is wounded. Ma Parks and the wife of the man whom Floyd has murdered take care of him. The girl the girl is pregnant (presumably Floyd is the father).

Ma Parks arranges the massacre of the police guarding a notorious criminal. After this incident in which three gangsters with machine guns murder four officers and their prisoner,

ganster come to Floyd's room (he and a girl are on the bed in his room) and take him off for a gangland trial. Floyd is freed. He flees to Oklahoma.

A woman, the wife of a farmer, helps Floyd, She tells him: "I don't want any money. You can give me a few minutes of relaxation."

Floyd is trapped by the police. He runs, is shot down in an open field, then gets up and staggers. He is shot somemore, finally falls dead.

A good idea of the content of the "House of Wax" may be obtained from the editorial which appeared in "Better Radio and Television," see paragraph 111, infra.

Public Reaction

103. Not all of KHJ - TV's viewing audience finds the station attractive. In the fall of 1964, KHJ - TV, at a cost of $10,000 commissioned Frank N. Magid Associates, a research organization to conduct an in-depth survey to determine the programming opinions of the Los Angeles viewing public toward television stations. The study is long, complex and much of it is devoted to subjects irrelevant here, but some facts are worthy of note. The study is based on analysis of a sampling of 796 Los Angeles residents. Distribution of those 796 persons was based on the variables age, sex income and occupations. Conclusions were drawn from the survey in the areas of news, sports. entertainment, public interest and advertising. In brief,

these were the conclusions of significance here:[5] News (over-all coverage) – less than 1% mentioned KHJ-TV while 34% mentioned the leading station in this category; Spots – although figures were given for other stations and the conclusion was drawn that no station projected a positive image, KHJ - TV was not mentioned; Entertaiment ("all around") - KHJ - TV was mentioned by 3% while 26% mentioned the leading station in this category; Entertainment (best movies) - KHJ - TV was the leader in this category with mention of 19% ("KHJ's movie image is the most positive among viewers of middle socio-economic level and among the younger age group"); Most contribution to community – KHJ-TV not mentioned while 12% mentioned the leading station in this category; Programs of an educational nature -KHJ - TV mentioned by less than 1% mentioned the leading station in this category; Most believable advertising – KHL-TV mentioned by 2% while 8% mentioned the leading station; Channel viewers would want to remain on the air if all others stations ceased – 4% mentioned KHJ-TV while 28% mentioned the leading station in this category.

104. Reports have been prepared for the National Association for Better Radio and Television (NAFBRAT) on the programming of KHJ - TV. One of these includes a factual presentation of the programming of the station during the week beginning Friday, August 10, 1962, and is based primarily on monitoring the station. The report

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5 Not all 796 surveyed responded to all questions. The word "mentioned" as used above connotes responses received and found acceptable for statistical use by Magid. In reading the Magid assessment it might be noted that there are seven VHF commercial television stations in Los Angeles.

is 57 pages long and goes into much detail concerning various facets of KHJ - TV's programming during the week. On the basis of the data analyzed these evaluations were made:

1. The station depends promarily on old theatrical films (mostly re-runs) for its basic program content.

2. There appears to be reasonable doubt concerning the station's active protection of its audience against misleading advertising.

3. The station's news coverage is not sufficient to constitute a significant community service.

The station violates standards established by the broadcasting industry in regards to the time -per -hour and individual length of commercial spot announcements.

5. The station is failing to produce or originate (with the exception of sports programs) telecasts which represent a significant value to the community.

6. There is an unhealthful saturation of crime and violence in the station's entertainment programs.

7. There are significant deficiencies in the station's religious, discussion, and agricultural programs.

105. A similar report to the one above, by the same organization, based on a monitoring of the station for the week March 31-April 6, 1967, found these facts: The station was on air during hours ranging from a high on Sunday, April 2nd of 19 hours 16 minutes to a low on Mon-

day, April 3rd of 15 hours 3 minutes. During the week Theatrical Films were presented 74 hours out of the 121-½ hours the station was on the air. There were 46 showings of 35 different films. Seven films were presented twice, two presented three times. 32-¼ hours were devoted to films over 20 years old. Children's programming carried by the station during the week was comprised of a Monday-Friday, five minute, morning show entitled "Nature's Window"; a TV film rerun, "Timmie and Lassie" carried Monday through Friday at 5:00 p.m.; a TV film rerun, "Superman." Monday through Friday at 5:30 p.m., and "Shrimpenstein," a live show carried Monday through Friday at 6:00 p.m. Religious programs carried during the week consisted of "devotionals" ranging in length from two minutes at sign -on and sign-off, taped, featuring local ministers, and three half hours of recorded religious programs. Other than the "devotionals" no religious program was carried on Sunday. In the field of Agriculture the station presented each morning, Monday through Friday, for ten minutes a program consisting for the most part of two short films distributed by the U.S. Department of Agriculture. Educational programming occupied 5-½ hours during the week. Included was a 30-minute, Monday through Friday, program presented by the Los Angeles City Schools, a program of the California Teachers Association, and several half-hour films produced at the University of Michigan. News -16 programs were aired ranging in length from five minutes to 30 minutes and 13 "headline" reports of one to two minute duration were carried. Total time devoted to news was less than four hours. Fifteen hours and 30 minutes during the week were devoted to Talk programs. Of this time 5-½ hours were devoted to Sports. At 2:30 p.m. Monday through Friday a live program was presented featuring interviews with experts in various fields of Public Affairs. These programs lasted from 50 to 60 minutes each day.

On Sunday evening Mayor Yorty was featured in a 90-minute program of talks with various guests. On Thursday evening there was a rebroadcast of a debate on conservatism between William F. Buckley, Jr. and Mark Davidson. During the week another Buckley program was broadcast, as well as an hour-long show featuring Al Capp.

106. NAFBRAT also issued a survey report entitled "Crime on Television." The report surveyed crime programs televised by Los Angeles VHF stations during the week of June 21-27, 1964. A crime program was defined as a program in which commission of crime was a major theme. War pictures, some spy pictures in which crimes occurred and cartoon programs were excluded from the survey. NAFBRAT disclaimed condemnation of crime programs per se but stated that it vigorously opposed saturations of violence and constant presentations of incidents and motivations likely to induce antisocial behavior. The survey found that during the week June 21-27, 1964, Los Angeles television stations televised a total of 192 hours of crime programs, an increase of almost 20% over the amount the stations broadcast in June 1958. More than two-thirds of these programs were broadcast before 9:00 p.m. KHJ - TV led all other stations with 42 hours devoted to such programs. The next highest stations carried crime programs 33-½ hours.

107. On September 3, 1964, NAFBRAT wrote the FCC complaining of the telecasting by KHF - TV of "Jack the Ripper" and "Pretty Boy Floyd."

108. On September 22, 1964, the United Church Women, Los Angeles Council, wrote NAFBRAT:

"I am enclosing copies of letters sent to the Federal Communications Commission and to the Program Director of KHJ-TV by the Los Angeles Council of United Church Women, in support of your Association's complaint of September 3 against the showing of Jack the Ripper and Pretty Boy Floyd.

"We hope that wnough protests will be made so the eventually we will see a decrease in the amount of violence and horror shown on television."

109. On September 24, 1964, Lionel Van Deerlin, Member of Congress, wrote to KHJ - TV. The body of his letter reads as follows:

"I have just received from an organization known as the National Association for Better Radio and Television an outline and summation of two pictures shown by your station several times during the week at hours when they were particularly available to children. The pictures were Jack the Ripper and Pretty Boy Floyd. I have aslo received a copy of a complaint issued by the National Association for Better Radio and Television to the Federal Communications Commission.

"Speaking not only as a member of the Interstate and Foreign Commerce Committee, but as a father of six children, I considered it incredibly bad taste for your station to

permit the televising of such films at any time, but particularly so at times when they are easily viewable by juveniles. I support wholeheartedly the complaint of the National Association for Better Radio and Television, and will do anything within my power to bring about a greater sense of responsibility to the public on the part of the management of stations such as yours."

110. On October 23, 1964, Congressman Van Deerlin wrote another letter to the station. The body of that letter reads as follows:

"I appreciate the courtesy of your reply to my letter regarding the NAFBRAT complaint concerning films telecast by KHJ - TV. At the same time, I am somewhat appalled at the ingenuosness of your apparent assumption of naivete on my part which would cause me to accept your explanation as having been made in all seriousness.

"The crux of your explanation regarding the films is that since they deal with violent subjects the matter should be expected to contain some violence. To a certain extent this is true, but a man in your position should know that there are acceptable and unacceptable ways of depicting violence. The film, Jack the Ripper, in particular, depicted acts of violence in an unacceptable manner. A description of the first murder is sufficient to explain what I mean:

". . . an unidentified sadist. . . accosted the victim, choked her until almost unconscious, then stabbed her in the abdomen with a long-bladed knife . . . . The murder was portrayed with screams, gasping sounds, and moans. The camera in this scene of murder, as well as those which follow, holds close-up views of the at first terrified and then contorted face. The murder scene is long and drawn out. Close-up on knife blade after it is pulled from the girl's body."

"You cannot believe yourself, or seriously be attempting to make me believe, that such details are necessary in the depiction of historical events. They are obviously inserted for pure shock value, and the attempt on your part to rationalize them as being merely a recital of factual events lacks validity. Such arguments are flimsy in the extreme and denote a somewhat astounding belief on your part that I and presumably other inquirers are lacking in intelligence.

"You state that in your selection of programs you attempt to satisfy a diversity of tastes and interests, I am moved to wonder to what tastes and interests you are pandering in your telecasting of movies such as Jack the Ripper. In short, I find your explanation unacceptable."

111. In the fall issue (1964) of Better Radio and Television (formely NAFBRAT Quarterly) an editorial appeared entitled, "Station Answer: "House of Wax." The editorial reads as follows:

"Seventeen days after the National Association for Better Radio and Television filed a complaint against the management of KHJ - TV for televising the sex-murder film "Jack the Ripper" during daytime and early evening hours, the RKO-General Los Angeles station presented the first of eight showings of "House of Wax" within a seven-day period. Station management could not have devised a more effective expression of its attitude toward the NAFBRAT complaint to the Federal Communications Commission. The implication is loud and clear: KHJ-TV will continue to broadcast lurid, sadistic horror films during "children's hours."

"There is no mistake here. There is no misjudgment of the broadcaster's attitude or intention. "House of Wax" is a viciously brutal film deliberately designed to frighten and horrify its audience. During the week beginning Monday September 21 many thousands of children viewed this picture during its eight showings -five times at 7:30 p.m., at noon on Saturday, and at 11:30 a.m. and 1:30 p.m., on Sunday. KHJ - TV promoted the showings of "House of Wax" in newspaper display ads with this appeal: "The motion picture you have asked to see! NOW! CAN YOU TAKE IT?"

"House of Wax" is a story about a disfigured sculptor who stalks and murders his victims, processes their bodies in boiling wax, and places them in his horror museum. Early in the film minutely realistic life-size was figures are are destroyed in a prolonged fire sequence which shows close-ups on faces and bodies as the wax drips

like flesh in the consuming heat. When the heroine of this epic in sadism discovers that one of the figures in the museum is actually the body of her murdered friend, the mad sculptor straps her in a coffin-like contained below a vat of boiling wax, gives her a hypodermic injection, and whispers: "The end will come quickly, my love."

"There is no mistake here . . . but there is something wrong. Exploitation of depraved tastes. Seven-thirty in the evening! Noon on Saturday! Sunday morning! Is RKO-General really qualified to use public domain Channel 9 within the public interest, convenience, and necessity? F.O."

112. Organizations and Congressmen were not alone in taking a dim view of KHJ - TV's on -the -air operation. As shown in the following subparagraphs, individuals also voiced critical views.

Dr. Clifton E. Moore, Director of the Radio-TV Film Commission for the Southern California Council of Churches, is an ordained minister. In pertinent part he testified that: His organization represents 2,000 churches in Southern California. It assists in providing religious television programming for Los Angeles television stations. He contacted KHJ - TV concerning the presentation of live programs but was told KHJ - TV does not do live church services and does not have facilities or manpower to do live programming. He does furnish KHJ - TV with a filmed program, "Bauman with the Bible," featuring a Washington, D.C., minister. He favors local stations presenting local religious leaders. A program broadcast in the past featuring a local

minister received greater acceptance than "Bauman with the Bible." KHJ-TV's "Insight" program, a nationally distributed program, features a Catholic Priest and is sectarin in part. In his opinion the program would be of greater value if a local priest were featured. Dr. Moore frowns on the Easter and Christmas services presented on KHJ-TV because they are commercially sponsored. In his view one time presentations of sponsored religious programs are not in the public interest.

Dorothy Clayton McKenzie is an associate professor of English at California State College at Los Angeles and teaches literature for young people. She was instrumental in the production of the program called " Concourse." The program was carried for some time over KHJ-TV but was abruptly terminated by the station. Mrs. Mckenzie, on June 1, 1963, wrote the station the following letter:

> "The misinformation which is being sent by your station to viewers who write you to ascertain why Concourse has been discontinued greatly disturbs me. I have a number of calls from persons who regretting the loss of the program, wrote to your station to learn the reason for its discontinuance. All were informed that I had taken ill and did not feel able to continue the series -you also had the temerity to add that you deeply regretted this unforeseen development.
>
> "You well know that your statement is not true and that, since two tapes were already prepared and I had made adequate plans for the preparation of several more, my brief indisposition would not have canceled a single telecast. You also know

that in my final telecast of May 5th I truthfully recounted the reason for cancelation, your insistance that the program be moved to Fridays at 12:00 or 12:30, half-hours during which most viewers interested in this type of program do not have free time. You made the decision, so it is difficult for me to understand your fabrication.

"Your lack of honesty has placed me in a most difficult situation, with viewers who write inquiring as to my health and with guests who had been invited for interviews which had to be cancelled due to the termination of the program. King Vidor had consented to be my next guest, and other distinguished personalities were awaiting word as to available time for tape preparation. I have explained the true situation to all of them; what will they think if they or their friends write your station and receive the fabricated explanation which you for some reason have invented?

"You made things difficult enough while we were participating in the program: the time was not premium. pre-emptions were made with little or no notice, mistakes were made in the order in which the tapes were run without apology and not once did you find time or disposition to make a single comment to me, written or by telephone, good or bad, concerning the program. Now that you have found that public service offerings can be disposed of by relegating them to a time during which few people who are interested in such programs have free

time for viewing, thus serving the dual purpose of making it possible for you to sell all of your weekend time and discouraging public service programs which appeal to a significant number of your viewers, do you think it is fair to inform questioners (I quote from your Mr. Sherwin's letter): 'We are very happy to have had the pleasure of carrying this program, and if it becomes available at some time in the future, we would make every effort to reschedule it'? (The same double talk has been incorporated into a form letter, so apparently you have had enough inquiries to make individual response uneconomical).

"The misinformation which you are dispersing is most discouraging to those of us who are willing to work in the media and are thick-skinned enough to endure the affronts which apparently are the lot of public service programs. Now that you have brought our venture to what you no doubt consider a successful conclusion, do you agree that common courtesy to me and to the College staff demands that you state the true reason when you are asked why Concourse has been discontinued? I sincerely hope that you do – it would require no longer a communication than does your fabrication."

Mrs. McKenzie gave a deposition in this proceeding. Her views concerning the matters covered in the letter have not changed.

Mary Rogers Smith, former coordinator for children in the Los Angeles County library system, author of children's

books, and winner of awards in her field, expressed her opinion of KHJ-TV's programming. "Jack the Ripper," "Pretty Boy Floyd" and "House of Wax" she regarded as unacceptable for children since they deal with violence, murder and glamorize crime. Based on her general viewing of the station, she found very little constructive programming for children and many old movies. Of some 16 syndicated features KHJ-TV presented, when it was not showing movies, eight or nine she considered to be unacceptable for children. "Shrimpenstein" she found offensive to children because of the injection of off-color humor into the program. Old movies she found objectionable for children since such programming preempted time to the exclusion of better material.

Elizabeth Longstreet, radio and television chairman for the 10th District Los Angeles P.T.A. (About 250,000 members), member of an advisory committee on "Head Start," the Economic and Youth Opportunities Organization, and the evaluation committee of NAFBRAT, also expressed her views. As a member of NAFBRAT she examines programming with a view to whether or not programs offered are suitable for children. Is is her opinion that KHJ-TV's programming is "uninspired" and not always "entirely responsible." The majority of the station's time has been used for the showing of motion pictures. She complained to KHJ-TV's manager over the repeated showing by the station of "Jack the Ripper". After a conversation with Klein she came away with the impression that his view of the station's responsibility was that "the station was responsible to maintain a high level of viewers so that they would sell time to their advertisers." Her opinion of "House of Wax" was that it was a terrible and frightening movie and the televising of it during hours children could watch was irresponsible. "Shrimpenstein" she found

to be unsuitable for children' viewing since it is ugly, grotesque and makes fun of daily life in a way children are unequipped to understand. Such shows are detrimental to children since they affect their behavior and thinking.

Margaret O. Pollack, of Fullerton, California, a member of the Board of Trustees of the Fairview State Hospital, and member of the League of Women Voters, testified that the League had conducted a survey of emotionally disturbed children in the Orange County Public Schools in conjuction with California State College at Fullerton. A report of the survey indicated that there were thousands of emotionally disturbed children in the Orange County schools. Substantial authority exists for the proposition that films shown on television, which deal with crime and violence, have a detrimental effect on children. She had found to her consternation that one of her own children had viewed one of KHJ-TV's multi-run movies, "The Last Mile," the tale of a sadistic convict.

Dr. Allan M. Zeltzer is an associate professor of drama at California State at Fullerton, specialist in the analysis of the administration of educational television, teacher of television techniques and producer of programs. He testified that in his opinion KHJ-TV is a "movie station" and weak, as a station, in comparison with other Los Angeles independent television stations. His opinion was that television was moving in the direction of becoming an adjunct to the motion picture industry and that condition interfered with the function of television as a medium. KHJ-TV, he found, offered very little: only token broadcasts of public affairs and cultural programs, a condition he found which did not work for the area, and the community, in public service. In his opinion a good television station should have a provocative editorial policy.

Charlton Heston, stage, film and television actor, and president of the Screen Actors Guild, testified that television in Los Angeles offers no creative stimulus to performers, although two-thirds of the members of the guild's income comes from television, and of those two-thirds, one half comes from work on commercials. The Guild's records show that television is increasingly oriented toward commercialization. Heston notes that television programming merely provides separation between commercials. An independent station could pay actors to appear before its cameras, believes Heston, for many stars like himself would work for minimum scale on a "good" program. This would be particularly true if the program was local, for then the actors' mistakes would escape national attention, Feature films on television he deplores because of the extensive cutting of the films necessary to tailor them for television, and the constant interruption of them to accommodate commercial announcements. In Heston's view television broadcasters have a responsibility to raise the level of taste and quality, He believes programs aired at times that attract child viewers creates responsibility as to content on the part of those who create programs. Violence on television, he believes, is a source of legitimate concern on the part of many people.

Fidelity Television, Inc.

Corporate Structure

113. FIdelity Television, Inc., was incorporated in California on October 8, 1965. The corporation is authorized to issue 100,000 shares of common stock with a par value of $10.00 per share. At the present time, 18 shareholders hold 3,395 issued shares, and 45,105 shares have been subscribed. The officers, directors and stockholders are:

Name and City of Residence (All California)	Office	Number of Shares Held	Number of Shares Subscribed	Percentage of interest
William G. Simon San Marino	President, Director	700	9,300	20.62
George R. Johnson Long Beach	Vice-Pres., Director	175	2,325	5.16
Walter B. Chaffee Fullerton	Secretary, Director	350	4,650	10.31
Nello C. Di Corpo Downey	Treasurer Director	70	930	2.06
Henry Duque Los Angeles	Director	350	4,650	10.31
Emmett H. Jones Los Angeles	Director	350	4,650	10.31
Mervyn LeRoy Los Angeles	Director	350	4,650	10.31
Louis J. Cella, Jr. Santa Ana	-	350	4,650	10.31
Phillip S. Twombly Fullerton	-	105	1,395	3.09
William B. Dugan San Francisco	-	70	930	2.06
John B. Lawson South Laguna	-	70	930	2.06
Emmett C. McGaughey Los Angeles	-	70	930	2.06
Edward M. Medvene Encino	-	70	930	2.06
Richard A. Murphy Pasadena	-	70	930	2,06
Edward L. Olsen South Laguna	-	35	465	1.03

Name and City of Residence (All California)	Office	Number of Shares Held	Number of Shares Subscribed	Percentage of interest
Anthony I. Owen Beverly Hills	-	70	930	2.06
Thomas R. Sheridan North Hollywood	-	70	930	2.06
Alexander Tucker West Los Angeles	-	70	930	2.06

Diversification of the Media of Mass Communication

114. None of Fidelity Television's stockholders has any connection with any broadcast station, newspaper, or motion picture theater. One stockholder does have an interest in a CATV system.

Integration of Ownership into Management

115. Set forth below is a list of the stockholders who plan to participate in the operation of the station should Fidelity receive the license here at issue, together with the job they would hold, and the amount of time they would devote to the job.

William G. Simon	General Manager	Full time
Nello C. Di Corpo	Director of Public Service Programming	Full time
Phillip S. Twombley	Community Relations Coordinator	20 hours a week
Emmett C. McGaughey	Public Relations Coordinator	10 hours a week
William B. Dugan	Sales Coordinator	15 hours a week
Louis J. Cella	Health and Medical Program Coordinator	5 hours a week

Thomas R. Sheridan	Discussion Program Coordinator	5 hours a week
George R. Johnson	Educational Program Coordinator	10 hours a week
Edward L. Olsen	Senior Citizens Program Coordinator	5 hours a week
Walter B. Chaffee	General Counsel	15 hours a week

Finance Committee

Walter B. Dugan, Chairman
Henry Duque
Emmett H. Jones

Creative Program Committee

Mervyn LeRoy, Chairman
Anthony I. Owen
Alexander Tucker

Biographical Sketches

116. In the following subparagraphs biografical data on the Fidelity stockholders is set forth:

William G. Simon (President, Director and 20.62% stockholder) was born April 17, 1913, at Douglas, Arizona. He attended Mt. St. Mary's College, California where he graduated cum laude, and the University of California at Berkeley where he received an LL.B degree in 1940. From 1940 to 1964 he was a member of the Federal Bureau of Investigation. His residence in the Los Angeles area began in March 1960 when he became Special Agent in Charge of the Los Angeles Division of the FBI, which includes about one-half of California and about 11,000,000 population. In March of 1964 he retired from the

Bureau and was honored at several testimonial dinners. Since leaving the FBI, he has engaged in the practice of law in the Los Angeles area and is in the same firm as Medvene, Murphy and Sheridan. He is also a salaried official of Leisure World Foundation, an organization engaged in the promotion and management of housing and recreational communities. In 1936 he had a radio show over a San Francisco station, a weekly book review program called "Contemporary Authors." While with the FBI he gave about 400 talks on citizenship and law enforcement to numerous civic groups. Since retriment from the Bureau he has continued to give these talks. When he was with the Bureau he belonged to several law enforcement organizations. In 1962-63 he served on the advisory council of Immaculate Heart College. He is a member of the Regents' Council of Mount St. Mary's College. In 1965 he participated in a seminar at Princeton on "Leisure." He has been honored by St. Mary's College for his work in community affairs. He is a trustee of the J. Edgar Hoover Foundation, a member of the California State and the U.S. Supreme Court Bars, the Wilshire Bar Association, the Los Angeles Club and the One Hundred Club. He has been a Deputy Grand Knights of Columbus, a member of the Holy Name Society, he served on a panel during a Senior Citizens Day celebration at the Los Angeles City Hall, and has received a Mayor's Certificate of Appreciation for service to the City of Los Angeles. He speaks Spanish and has contacts in American-Mexican communities.

George R. Johnson (Vice President, Director, and 5.16% stockholders) was born March 19, 1917, in Price, Utah. His family moved to Long Beach California, in 1920. He attended Long Beach public schools and is a graduate of the University of California, B.A., LL.B. He is a member of the California Bar. With the exception of about three years as Special Agent for the FBI (1942-1945) and one year in the San Francisco area

(1945-1946), he has been a resident and lawyer in the Los Angeles-Orange area since 1940. Since January 1949, his office has been located in Long Beach. He is a member of the American Bar Association, Los Angeles County Bar Association, and Long Beach Bar Association, and has been active in Bar Association affairs. He is a member of the Chamber of Commerce of the United States, Los Angeles Chamber of Commerce, and Long Beach Chamber of Commerce, and has been active in Chamber of Commerce affairs. He is also a member of the Board of Trustees of the Memorial Hospital of Long Beach, the Board of Directors of the Better Business Bureau of Long Beach and a member of the Long Beach Council of the Navy League of the United States. He is a Trustee and Treasurer of Republican Associates in Los Angeles County, was a member of the Republican County Central Committee for Los Angeles County, and is a member of the Executive Committee and of the Budget and Expenditures Committee of the United Republican Finance Committee of Los Angeles. He is a Director of the Long Beach Legal Aid Foundation, Secretary and member of the Executive Committee of the Citizens Advisory Council on Public Transportation, a member and former director of the Kiwanis Club of Long Beach, a member of Phi Delta Phi Legal Fraternity, and of the Society of Former Special Agents of the Federal Bureau of Investigation.

Walter B. Chaffee (Secretary, Director, and 10.3% stockholder) was born on October 3, 1915, in Garden Grove, California. He attended elementary and high school in Garden Grove, the University of California at Berkeley, and the University of California Law School. He practiced law in California, and was law clerk to Justice William O. Douglas of the Supreme Court. He has served as City Attorney of Fullerton and as Municipal Court Judge. He is now engaged in private practice in Fullerton. He is a member of the First Methodist Church of Fullerton and

has served on several of its boards, including a term as Chairman of the Board. He helped organize the North Orange County Hospital Building Association, an organization instrumental in promoting construction of a hospital. He has been a trustee of a Hospital in Costa Mesa. He is a member of the Moose Lodge, is a director and past president of the Fullerton Boys' Club, a director and past president of the Family Service Association of Orange County, and a member of the Navy League. He has also been active in the local United Fund and in the Boy Scouts and YMCA, is a director of Friends of the University of California, Irvine, and a director of the Fullerton Junior College Foundation. Since 1949 he has served as Appeal Agent for a Local Selective Service Board. He is past president of the Orange County Bar Association, a member of the California Committee of Bar Examiners and of various State Bar Committees. He is past president of the 34th Congressional District Organization of Business and Professional Men and is president of the Orange County Democratic League. In 1962 he served as chairman of the Orange County Democratic Central Committee. He is a member of the California Non-Partisan Voter Registration Committee. He serves on the board of directors of the County National Bank in Orange, Occidental Savings and Loan Association in Stanton, and Founders Life Insurance Company in Orange.

Nello C. Di Corpo (Treasurer, Director and 2.06% stockholder) was born in Huntington Park, California, on May 3, 1931. He attended elementary school, high school and college in Southern California. From 1953 to 1959, he was Chairman of the Business Education Department of a school district. Since 1959 he has been employed by Cerritos College, Norwalk. He started as an instructor and supervisor of various activites at the College. Since 1963 he has been Dean of Community Services. This position encompasses a wide range of community related

activities, including the following: coordination of community events; contact maintenance with community groups such as League of Women Voters, jevenile authorities, Attorney General's office on crime prevention, Southeast Recreation District, Department of Employment, and Los Angeles Music Center. He has helped set up workshops, seminars, clinics, institutes and special lectures to bring cultural programs to the campus. He has helped in preparing Community Services budgets, the maintenance of records and reports pertaining to educational services, assisted in preparation of a community calendar, worked with the executive secretaries of the Business and Recreation Citizens Advisory Committees, coordinated the Speakers' Bureau, supervised the Art Gallery program, and worked with all the divisions in coordinating seminars, workshops, clinics and youth leadership conferences. He has also served as Executive Secretary of various advisory committees, a job requiring cooperation with community leaders. He has been a PTA officer and has attended a youth conference.

Henry O. Duque (Director and 10.31% stockholder) was born in Los Angeles on July 4, 1904, and has lived there almost all of his life. He has an LL.B. degree from Harvard, and in engaged in the practice of law. He is also a director of the Union Bank of Los Angeles, Sequoia Forest Industries, Inc., and Charles Luckman Associates. He has long been active in a variety of community activities. During World War II, he moved to San Francisco to accept the post of Director of Civil Defense, Northern Sector -a dollar-a -year job. To serve in this post he gave up his law practice. From 1939 to 1946 he was a Director in the American Red Cross. He served for 6 years as President of the Los Angeles Police Commission. He was a founder and the first President of the Los Angeles Music Center and also a founder and first President of the Los Angeles Club. He served as Director and Secretary of the Civic Auditorium and

Music Center Association of Los Angeles. He has been a member of the Board of Directors of the San Francisco Opera since 1955. He has alse served as President and Chairman of the Los Angeles Symphony Association. He served as a Director of the Los Angeles Chamber of Commerce. Since 1946 he has been Chairman of the "Greater Los Angeles Plans," an organization devoted to planning civic and cultural improvements for Los Angeles. He was an organizer and First President of the One Hundred Club of Los Angeles. He has been a Trustee of Harvey Mudd College since 1956. He has been a trustee of the Leisure World Foundation since it was organized in 1964. He holds membership in the American and Los Angeles Bar Association and the State Bar of California.

Emmett H. Jones (Director and 10.31% stockholder) was born in Denver, Colorado, on November 24, 1901. His family moved to Los Angeles in 1914. He attended high school in Southern California and was a student at the University of California. He is President and Director of the Industrial Engineering and Equipment Corporation, Los Angeles, and holds offices and interests in oil producing and refining companies and other enterprises in the Los Angeles-Orange area. He maintains residences in Los Angeles and Laguna Beach (Orange County). He is a member of the Los Angeles Chamber of Commerce, the Los Angeles Electric Club, the Petroleum Club, the Independent Oil and Gas Producers Association, the Association of Drilling Contractors. and the Western Oil and Gas Association.

Mervyn LeRoy (Director and 10.31% stockholder) was born in San Francisco, California, in 1900. He was a vaudeville performer in his youth, and later became a director of motion picture films. He has been a resident of the Los Angeles area since the 1920's and currently resides in Beverly Hills. His name has appeared on a long list of popular screen successes, both as producer and director. He has had 20 pictures play Radio City Music Hall, an all -time record for anu Producer-Director. He has worked with many of Hollywood's most distinguished performers. He now produces motion pictures in association with Universal Pictures Company. He once staged a homecoming for Generals Doolittle and Patton during World War II, which was attended by 175,000 people, the largest crowd ever assembled in the Los Angeles Coliseum. In recognition of his services to the Office of Inter-American Affairs, he was awarded the War Service Certificate by the Coordinator and Director of Inter-American Affairs. He is serving his sixteenth year as President of Hollywood Park Turf Club and is a trustee of the Racing Museum at Saratoga, New York. He was the first President of the Show Business Shrine Club, is a member of the California Museum of Science and Industry, and is a member of the Hollywood Motion Picture and TV Museum Commission. He has been Abbott of the Friars Club of California and has been honored by B'nai B'rith as "The Man Of The Year." He received many awards for his work in the movie industry and is on the Board of Governors of the Academy of Motion Picture Arts and Sciences. He is a member of the Board of Regents of Loyola University in Los Angeles, and is a Regent of St. John's Hospital in Santa Monica. He claims a consierable familiarity with the communities that lie south of Los Angeles and their problems.

Louis J. Cella, Jr. lives in Orange County. A prominent surgeon, and director of a clinic in Santa Ana, he belongs to a number of professional organizations and is active in civic affairs. *Phillip S. Twombly* is a lifelong resident of

Orange County. For several years he was Vice President and General Manager of Blue Growers, Inc., a major grower and marketer of fresh fruits and vegetables. He has a distinguished record of contributions to agriculture at both the local and national levels and is also active in local civic affairs. He is a 10% stockholder, officer and director of Pala Mesa Cablevision, Inc., operator of a CATV system at Fallbrook, California, serving about 400 subscribers. *William B. Dugan* is a longtime resident of Los Angeles. He recently moved to San Francisco. He is in advertising and merchandising. *John B. Lawson* is Vice President of Philco-Ford and General Manager of its Aeronutronic Division at Newport Beach. He has lived in the Los Angeles area since 1961 and has distiguished record of participation and contributions both in business and civic affairs. *Emmett C. McGaughey* has lived in the Los Angeles area for 35 years. He is Vice President of an advertising agency. An ex-FBI agent and former police commissioner, he has a long record of substantial activity in community, welfare and service organization affairs. *Edward M. Medvene* has lived in Los Angeles since 1960 and practices law there in a firm with Simon, Murphy and Sheridan. He is active in YMCA work and assists the American Civil Liberties Union in its litigation. *Richard A. Murphy* is forty years old and has lived in Los Angeles since he was twelve. He practices law in Los Angeles with Simon, Medvene and Sheridan. He participates in the affairs of a number of professional organizations. *Edward L. Olsen* has lived in Los Angeles for 13 years. He has a law degree and is an ex-FBI agent and is now President of the Leisure World Foundation. He participates in a number of civic activities. *Anthony I. Owen* has been a resident of the Los Angeles area since World War II. He is president of a television program production company and is also active in motion picture projects. He

has received commendation from United Community Campaign of America and is on the board of trustees of a hearing research foundation. He has received citations for his professional achievements. *Thomas R. Sheridan* has resided in Los Angeles since 1953. He is a lawyer and practices in the same firm as Simon, Medvene and Murphy. He has occupied several conspicuous positions in the field of law. He is active in civic and governmental organizations. *Alexander Trucker* has resided in Los Angeles County since 1944, has a law degree, operates a citrus grove, and is an officer in a number of motion picture and television production companies. He belongs to a Chamber of Commerce and has participated in charity and relief activities.

Motivational Factors Behind the Filing of the Fidelity Application

117. Eleven television channels are allocated to Los Angeles. Los Angeles has about 3,000,000 population. Over 4,000,000 people reside outside the city but in the same general area. The proximate area with the greatest growth lies south and east of Los Angeles. In that direction lies Orange County with a population of over two and a half million. Orange County is recognized by the Census Bureau as a metropolitan statistical area separate and distinct from Los Angeles. By their very nature Los Angeles television stations are oriented in the direction of the "big" advertiser. A survey made on behalf of Fidelity involving 6,000 telephone calls, letters to 1,200 community leaders, and meetings with leaders in the field of education, government, commerce and cultural affairs gave Fidelity grounds for concluding that KHJ-TV of all the television stations

serving the area was doing the least in the way of public service, that most of its programming was composed of old feature films and cartoons, and that there were many complaints against the station for excessive commercialism. Fidelity also read the Commission's Policy Statement on Comparative Broadcast Hearings with particular emphasis on the statements there concerning two cardinal Commission policies: (1) achiev- service in the public interest because to do so would curtail financial return to the injury of their investors. Moreover, Fidelity noted, conglomerates are inherently incapable of ownership being integrated into day-to-day station operations. As a final conclusion Fidelity decided that KHJ-TV was the antithesis of a public interest operation.

Location of Station and Use of RKO Equipment

118. Fidelity proposes to have its main studio in Norwalk, Los Angeles County, a city with a population of 88,856 located 15 miles southeast of Los Angeles. It also proposes to have an auxiliary studio in Anaheim, Orange County, a city with population of 104,184. It conceives that these facilities will serve as local outlets for what it calls the "Southland," an amorphous area lying to the south and east of Los Angeles which includes Orange County.

119. In one of its exhibits Fidelity states:

> "Should Fidelity be the successful applicant in this proceeding, it would contemplate negotiating in good faith with RKO General, Inc., for the purchase of such of its equipment and facilities, presently utilized incident to the current operation on Channel 9, as may be adaptable to Fidelity's proposed operation."

Need for the Proposed Station

120. Several witnesses gave testimony indicating a need for a television station to serve in the "Southland Area". Brief digests of their testimony are set forth in the next 20 subparagraphs.

Leland E. Oliver, an advertising and public relations man with offices in Orange County, believes Orange County is indeed a separate metropolitan area from Los Angeles. That fact is demonstrated, he points out, by the fact that about 85% of Orange County residents work in Orange County.

Dr. Daniel G. Aldrich, Jr., Chancellor of the University of California at Irvine (Orange County), stated that his school has never been approached by any Los Angeles television station and asked how a station might serve his school or the community. In business, cultural and educational resources, he feels Orange County is a separate area from Los Angeles. He feels Los Angeles television stations have little identification with Orange County in that advertisers, sponsors and personalities are from Los Angeles. In his view Southern California television stations are "faceless" in that they are not aimed toward a particular community interest and are not particularly sensitive to local need.

General S. Jacobs, a long time resident of Long Beach (population 370,000), active in a number of civic organizations there and President of the Board of Education,

stated that although Long Beach, during the past few years, had a number of important problems to cope with, to his knowledge no coverage was given those problems by Los Angeles television stations. He has no knowledge of any television programs that devote time to long Beach public affairs on a regular basis. In his view Long Beach residents are not primarily interested in Los Angeles news and feel they have been neglected and relegated to second place.

William J. Mooney, Chief of Police of Long Beach and active in civic affairs there, stated that Los Angeles television channels gave practically no news coverage to the Law enforcement and civic activities of Long Beach. Programs of his department such as "Lock Your Car," "Stamp Out Crime," and "Law Enforcement on Display," designed to elicit citizen cooperation with the police, received no such coverage. In his view residents of Long Beach consider themselves a separate community from Los Angeles.

Gene M. Bishop, Division Manager of Insurance Securities Trust Fund & Life Insurance Company of California, and President of Long Beach Chamber of Commerce, testified that Long Beach is a major industrial area with fine harbor facilities. Long Beach residents consider themselves separate from Los Angeles, and have independent cultural and educational identity. In his opinion television could be a great help to Long Beach. A local "Job Fair," designed to provide employment information to the needy, would have assisted many more people if television coverage had been available. To his knowledge, important problems pertaining to ownership rights in oil deposits over the past three to four years have received little coverage on television, and no television station has contacted the Chamber of Commerce to inquire how it may help.

William H. Hirstein, a member of the Board of Supervisors of Orange County, California, for twelve years, testified that he and the other members of the Board signed an affidavit which stated that community service programs such as those that had been outlined to him by Fidelity were not being broadcast in the Orange County area; that there is a need for these types of programs; that Orange County is an area with over 1,200,000 inhabitants with no television outlet; and that it is distressing not to be able to effectively communicate the needs of this fast growing county.

Cecil Hicks, District Attorney of Orange County, testified that his office has responsibility for prosecution of all felony cases that arise in Orange County, and in all but five or six cities his office also prosecutes misdemeanors. To his knowledge, the only television coverage his office receives is one newsman from Channel 2, who covers the courthouse area. He has not been contacted by any of the Los Angeles television station to ascertain what public service programming may be benefical to the District Attorney's office, or the community at large.

Mary Michaelyn Schultz, organizer of the Arts Colony of La Mirada, California, active in community affairs of La Mirada for a number of years, and present member of the Cerritos Fine Arts Associates, stated that at various times the organization she has worked with have attempted to obtain television publicity or coverage of special events, such as an "Arts and Cultural Festival" and a program called "Culture at the Grass Roots." However, they were unsuccessful. She attended a meeting at Cerritos College where representatives of Fidelity Television, Inc. met with some 50 community leaders. At this meeting a question and answer session was held to determine how Fidelity

could serve them, and what they wanted to see on Fidelity's public service programs. No Los Angeles television stations has ever contacted her to ascertain the needs of her community.

Dr. Charlotte Frances Stevenson, Supervisor of Music of the Bellflower Unified School District since 1946, member of many professional societies, and active in community affairs, testified that a recent international music symposium, "Creativity and Participation in Music Education," was recently held in Bellflower, California, near Los Angeles. People from all over the United States attended the symposium. There was no television coverage of this event even though coverage was solicited by members of the organization. In her opinion, there is not adequate opportunity on Los Angeles television for musical education programs. There is, however, a great deal of local talent available. She represented her school district at a meeting of community leaders held by Fidelity Television, Inc., at Cerritos College, where there was discussion as to how Fidelity could serve the area. To her knowledge no television station had ever sought out expressions from her community. There is little television coverage of the events in her community.

Reverend Herman Mees Mayer, Senior Pastor, First Lutheran Church, Fullerton, California, and associated with the church for 15 years, testified that there is a need for members of a community to have a sense of identification. In his 15 years in Orange County, none of the Los Angeles television stations has ever contacted him. No television air time has been made available for exposure of Orange County religious matters to his knowledge. In his opinion, there has been less opportunity for religious televison programming in the

Los Angeles area than in any other section of the country in which he has served.

Reverend Kenneth A. Stewart, President of Pacific Christian College and a resident of Long Beach, California, testified that the college presents musical festivals, programs and choral productions but has never been approached by a Los Angeles television station for the purpose of presenting a program. The school would be very interested in television exposure, and feels capable of supplying the performers for such programs.

John Laurence Barrett, Secretary-Treasurer of Buffums Department Store, with branches in Long Beach, Long Beach Marina, Santa Ana, Pomona, Palos Verdes and Lakewood, testified that he is active in the Long Beach Chamber of Commerce, Better Business Bureau, the United Way and the Long Beach Community Chest. The Better Business Bureau's function is to disseminate information to the public in order to protect them from unethical businessmen. To his knowledge, no Los Angeles television station has ever approached the organization to determine what they could do to aid it. Excluding some spot announcements the same is true of the United Way, in which he has been active.

Calvin C. Brack, Secretary-Treasurer of Brack Enterprises, Incorporated, a resident of Orange County since 1955, Mayor of Westminster, California from 1961-1964, and former member of the West Orange County Water Board, participated in the decentralization of Orange County, and a water bond issue in Westminster. There was no television coverage of these projects and none was offered by Los Angeles television stations.

Joyce Susan Vivian Brenner, a resident of Santa Ana, California, voice teacher, and Chairman of the Educational Programming Committee of the Charles W. Bowers Memorial Museum Foundation in Orange County, testified that the museum offers lectures, concerts and other cultural events. It also has an archeological society and a county historical society. She was once employed in television as a staff member of NBC. Based on her past experience in television, and present work with the Bowers Museum, it is her opinion that there has been no separate cultural image of Orange County established by the Los Angeles television stations, even though there is a wealth of cultural events taking place there. There has been no television exposure of these many events. She has never been contacted by any Los Angeles television station to determine programs of the museum available for broadcasting. In her opinion, the programming of KHJ-TV is not stimulating since viewing films 10 to 20 years old is not very challenging.

Galal Joseph Kernahan, a resident of Anaheim, California, and Executive Secretary of the Garden Grove Education Association, testified that Arnold Pike, coordinator of radio and television for the Southern California Teachers Association, and producer of "Dateline Campus", aired on KHJ-TV, visits Orange County infrequently. In his opinion, Los Angeles television stations are interested primarily in the Los Angeles area, especially in respect to newsworthy events.

Roland E. Bigonger, a resident of Yorba Linda, California, Orange County, an attorney, and active in civic affairs, testified that he has been a resident of Orange County for 35 years, and that there are many civic events of interest which have taken place in Orange County throughout this time. In his opinion, Orange County is a separate community with separate interests. He ran for political office in 1966, but was offered no television time. In his view Los Angeles television stations broadcast few newsworthy events involving Orange County.

E. Frederick Bien, City Administrator of the City of Norwalk, California, in Orange County, testified that Norwalk is one of the "Southeast" communities which lie southeast of Los Angeles. The only sources of focal information concerning Norwalk are throw-away newspapers. The only television coverage they have received has been limited to some spot promotions when the city dedicated its new City Hall about two years ago, and to his knowledge, there has been no television exposure by way of a program devoted to public affairs within the area. He feels there is a great need to develop public awareness of the importance of local goverment through the dissemination of information to the people, and that television is the best practicable way to do it. In his opinion, Norwalk is not a suburb of Los Angeles.

John H. Corcoran is a resident of Artesia, California, and manager of the Cerritos Chamber of Commerce. Cerritos is about 12 miles from downtown Los Angeles. His community gets no television coverage unless they come up with something spectacular. In his opinion there is a definite need for television coverage in the "Southland" communities. At present about the only means of communication are "throw away" newspapers. School bond elections have poor turnouts because there is no means of getting messages concerning them across to the public. He has no knowledge of any Los Angeles station ever making effort to determine service area needs. KHJ-TV, in his opinion, primarily shows old movies. He feels television should be better utiiized. Local events such as "Pan American Fes-

tival" involving Lakewood, Norwalk and their sister cities in Mexico received no television coverage. Area such as the one he lives and works in are acquiring cultural facilities. Communications would help facilities their development. The Hollywood Bowl, the Music Center and the Sports Arena get real coverage. Some of the people who attend those places might come to the "Southland Area" if they knew what was going on.

Dr. Allen M. Zeltzer, an Associate Professor of Drama at the California State College at Fullerton, testified that the residents of Orange County have their own cultural events, educational events, fairs, schools, and governments, which give the County a separate identity from Los Angeles. The people in Orange County consider themselves independent of Los Angeles County, and the City of Los Angeles. There is a great wealth of local talent in Orange County which could be used for television programming. In his view there is an advantage to local ownership of a broadcast facility because under such aegis it can provide more public service programming. Los Angeles television stations do not provide an outlet for Orange County expression.

Margaret O. Pollack, a resident of Fullerton, California, member of the Board of Trustees of Fairview State Hospital, and a member of the League of Woman Voters, testified that Orange County has a separate identity from Los Angeles, and television coverage does not give expression to the County's community needs. To her knowledge, no Los Angeles television station has contacted the League of Women Voters of Orange County to determine their needs, even though the organization's purpose is primarily public affairs.

Program Proposal

121. The record contains no facts on how Fidelity would program its station (see paragraphs 3, 6, 8, 10, 11, 13, 15, 18, 19 and 20 of the Preliminary Statement).

Findings of Fact
(Second Phase of Hearing)

Trade Practices of General Tire and Involvement of KHJ-TV

How the Subject Got into Hearing

122. The mechanics of how the above subject got into hearing, and the limitation placed on the issue, are described in paragraphs 10, 12, 14-16, 18-20, above. As a further preliminary to the findings which follow, it might be well to point out why the headnoted subject is in issue.

123. There is an old saw to the effect that a backwoods mother was notified by a horrified witness that one of her children had just been eaten by an alligator. According to the tale, her only response was that she had been telling her husband that *something* had been getting their children.

124. The media of exchange in the market place of broadcasting now takes several forms. Programs are not usually sold for individual sponsorship. Something called a "participating spot announcement" is the station's main product. These announcements are items of commercial matter carried in batches before and after bits of program material in the expectation that viewer interest in what has gone before and what promises to come after will render the viewer sufficiently quiescent to permit the flow of the commercial matter to wash across his mind. The product is sold in a variety of ways. To national advertisers and Madison Avenue it is sold on the basis of a station "rate card" by specialists in the field who are quartered in those large metropolitan areas where the purchasers are located. These specialists represent large groups of stations, sell millions of dollars worth of advertising time, and are remunerated on a gross-volume-percentage-of-sales basis. Local advertising and regional

advertising are for the most part vended by salesmen attached to local stations. These agents, too, employ rate cards and are remunerated on a percentage-of-sales basis. Commercial announcements are also the medium of exchange in "trade deals." These transactions usually involve the direct exchange by the station of blocks of spot announcements to some purveyor of goods or services, or his agent. The station product is traded for various kinds of goods and services ranging in value from a meal ticket to a luxury car or a trip to Europe. Such transactions, needless to say, are usually the prerogative of ownership or top management. Finally, spot announcements are also disposed of through "Barter Houses." These establishments, in composition, resemble both a "Swap 'n Shop" and a bank. They are in the business of acquiring from the stations, for the same kind of consideration involved in "trade deals," such time as the station has the temerity to allocate to purely commercial matter not otherwise sold or traded. The announcement time thus acquired, the "Barter Houses" sell off piecemeal to advertisers at a fraction of the consideration the announcements would otherwise command.

125. On the basis of pleadings filed by Fidelity with the Examiner, it was his judgment that not only was there a reasonable basis to believe that some of the sales practices through which KHJ-TV disposed of advertising time might not only provide facts germane to the central issue here, but they also might well disclose a sales practice not previously identified but one that, nevertheless, might be illuminative of the purposes for which this nation's broadcast time is being used. The pleadings suggested that at least some purchasers of KHJ-TV's advertising were not buying time primarily for the sake of buying time, but rather to keep General Tire and Rubber happy. Now the span of a broadcast day is a measurable concept. The constant inroads made by advertising time on programming, during a broadcast day, are

ever present happenings, plain for all to see. It seemed to the Examiner that if, in addition to the forces of attrition against programming already described, there was another such impetus, it should be identified, if for no other reason than to insure that the public and its representatives were not placed in the position of the mother in the story who, through ignorance, was only cognizant that something important to her was disappearing.

Some Background Facts on How Trade Relations Works at General Tire

126. The disposition and acquisition of products and services are not all processed through conventional sales and procurement channels at General Tire and its subsidiaries. That is to say that products and services bought and sold by General Tire and subsidiaries are not exclusively handled by procurement or sales personnel. For example, in an effort to cut costs at its synthetic rubber plant in Marion, Ohio, an arrangement was made whereby Olin-Mathieson, one of several firms that furnished a product called "polyol" used in the synthetic rubber process at Marion, was given a fixed percentage of the plant's "polyol" business. This arrangement resulted in the reduction of sales by other suppliers of the product to the plant. General Tire's Director of Purchasing asserted that he had no knowledge of the terms of the agreement but had merely been notified by "management" to procure "polyol" primarily from Olin-Mathieson. As will be seen later, the record is replete with evidence of sales efforts made by General Tire personnel who are not affiliated with what would ordinarily be considered a company's sales staff. The record is also full of evidence that sales and purchases carried on outside of normal channels involve contemplation, by both General Tire and those with whom they negotiate, of the purchases and sales made by both, from

each other. Numerous witnesses testified that the theme of trade relations was "you buy from me, I buy from you." Evidence here further makes clear that numerous persons bearing a variety of titles are employed by General Tire and its subsidiaries to contribute to such negotiations as those described above, that these negotiations bear fruit, and that RKO and KHJ-TV are frequently either involved in, or are the beneficiaries of, such negotiations.

127. In the parlance of the trade these extraordinary negotiations are conducted under the rubric "trade relations." As far as this record is concerned the key figure in this field was John G. Ragsdale, General Tire's Director of Trade Relations from 1961 to 1966. Among others involved in "trade relations" were James B. Filson, Ragsdale's West Coast Assistant; G. Lawrence Murphy, Jr., Ragsdale's Assistant in Akron; Robert E. Wilke, Director of Corporate Relations for RKO; Harry Trenner, RKO's West Coast Division Director; Donald Quinn, Director of National Sales for RKO; and Sam Slate, Vice President of RKO.

128. Ragsdale, when he took over the trade relations position, set up files on all companies that traded with General Tire and its subsidiaries either as buyers or sellers, as well as files on any company not thus qualified but listed in Fortune Magazine's roll of top U.S. corporations. Ragsdale's files contained data on the amount of business consummated annually between the subject company and General Tire and its affiliates, a list of persons at the subject company that might be contacted for a trade relations approach, and a running summary of the current state of affairs between the subject company and General Tire and its affiliates.

Trade Relations Practices in Action

129. In an effort to show that the trade relations practices of General Tire at KHJ-TV rendered a disservice to the public interest, Fidelity, who it is to be remembered alone carried the burden of proof on the subject, introduced into evidence facts concerning a number of specific instances of trade relations practices between the General Tire complex and several of the companies with whom it dealt. These facts are here digested and set forth in the paragraphs which follow under the name of the company with whom General Tire carried on the negotiations.

Aluminum Company of America

130. On January 4, 1962, Wilke wrote the Director of Trade Relations of Alcoa referring to a prior telephone conversation, forwarding a list of RKO broadcast facilities, noting that advertising negotiations were coming up, expressing gratitude for cooperation, and expressing expectation of continued beneficial association between General Tire and Alcoa. On the same date he wrote an inter-office memorandum saying that he had discussed with an Alcoa official the association between Alcoa and General Tire, including help on upcoming Boston radio business, and had obtained a promise that the official would go to bat with Alcoa's advertising department. Optimism was expressed that the Alcoa official's intervention would aid RKO's sales efforts with Alcoa's advertising agency. On January 29, 1962 a General Manager for Field Sales for Alcoa wrote to Wilke reporting that he had put in a good word with Alcoa's advertising people on behalf of RKO's Boston station but found that Alcoa felt that it should stay with another Boston station, WHDH, because of prior successful experience there and the superiority of WHDH for Alcoa's purposes. Regret was ex-

pressed for the negative report and assurance was furnished of favorable consideration being given other RKO stations when they could fit into Alcoa's programming. On March 12, 1962 Wilke wrote Ragsdale forwarding a tabulation of the amount of business RKO stations received from General Tire's leading suppliers from October 1, 1960 to September 30, 1961. The list had been compiled by RKO sales. Wilke advanced the opinion that the figures were on the short side, noting that he had been informed by Alcoa that they had spent $105,000 on RKO's several radio stations. The list reported Alcoa as spending $31,073. On January 31, 1963 Ragsdale wrote Wilke that he had received from Alcoa a list of their purchases from three RKO stations for 1962 including $8,000 with KHJ, Los Angeles. Wilke was asked to check the accuracy of the figures.

131. On February 25, 1965 an Alcoa official wrote to Wilke acknowledging a letter from Wilke and stating that a survey had been run on Alcoa activities in connection with RKO properties. The letter explained that Alcoa's main use of radio and television was through national networks. However, the letter noted, RKO's facilities were being used at least to some extent. Alcoa's expenditure on RKO's San Francisco station was given, as well as an expenditure of $2,192 for KHJ. The writer stated that he was passing the information contained in Wilke's letter on to Alcoa's two advertising agencies "with the recommendation that 'all things being equal,' it would be helpful if we could do business with some of your other broadcast properties." The letter concluded with the observation that the writer would be glad to meet with General Tire representatives and suggested that the latter be sure and meet the person in charge of Alcoa's broadcast activities.

132. On May 5, 1965 Wilke wrote the Manager of Trade Relations of Alcoa. The entire body of the letter reads:

> "I just received word from the manager of our Chicago operations that he had confirmation of the Alcoa schedule for KHJ-TV.
>
> "He was elated the way things worked out and I want to thank you for your prompt efforts in our behalf. Will see you in New York the week of the 17th."

133. On July 2, 1965 an Alcoa inter-office memorandum stated that an attached document had been discussed with Wilke who seemed well pleased. The attached document was also an Alcoa inter-office memorandum reporting four purchases of advertising time by Alcoa over RKO stations. The memorandum further stated that in respect to a second wave of TV time purchases that was to shortly occur, Alcoa's advertising agency would be asked to make every effort to schedule time on RKO stations. Projecting past purchases from RKO with future purchases, the memorandum forecast a $10,000 figure for current year purchases by Alcoa from RKO stations for its aluminum-beer-can-easy-opening-top advertising campaign.

134. Alcoa spent no money with KHJ-TV in 1962, 1963, or 1964. Between January and November, 1965 it spent $8,069.

American Airlines

135. In a General Tire Trade Relation and Customer Activity Report on American Airlines the following item appears for October 26, 1962:

"Filson to JGR [Ragsdale] in addition to the million a year we spend for tickets with American Airlines, note Aerojet has paid them $102,000 past nine months for Air Freight.[6] RKO up till last year enjoyed some business with their advertising agency until they changed agencies and RKO was dropped. I understand their advertising contract for 1963 is coming up and RKO is trying to get back in. I am going to see District Sal Manager [sic] of American here and solicit his assistance. Caffee advised that unless there is some reason such as schedules and routings that require use of American, we need not favor them. You might want to pass this on to Bob Wilke."

136. On November 8, 1962, Wilke wrote a letter to the Vice President of American Airlines for Public Relations, the body of which reads:

"I enjoyed lunching with you yesterday and appreciated the opportunity to talk to you about the scope of the General Tire operation.

"For your information the identity and location of the RKO General broadcast facilities is as follows:

RADIO		TELEVISION
New York	WOR	WOR-TV
Boston	WNAC	WNAC-TV
Detroit	CKLW	CKLW-TV
Los Angeles	KHJ	KHJ-TV
Memphis	WHBQ	WHBQ-TV
San Francisco	KFRC	
Washington	WGMS	

[6] Aerojet is a subsidiary of General Tire.

"I know that our entire organization will be very pleased if the RKO General radio stations are permitted to share in the forthcoming American Airlines campaign."

137. There is evidence that RKO sold American Airlines over $100,000 worth of advertising in 1961, and that KHJ-TV after 1964 sold American Airlines some advertising.

Burlington Industrial Fabrics Co.

138. On July 13, 1961, the Vice President of Burlington Industrial Fabrics Co., Thomas B. Hill, wrote Wilke concerning a telephone discussion between the two held the day before. The subject was Burlington's broadcasting schedule for the fall on behalf of its support-hose division. In the letter Hill reported that the President of Burlington's Industrial Fabrics Company had held discussions with Burlington's Hosiery and Publicity Departments along the lines of prior discussion between Hill and Wilke so that it would be known that Burlington was "putting in an oar" for both its Industrial Fabrics Company and General Tire. The advertising agency handling the campaign was named and a recommendation was passed on that Wilke should keep in close touch with the agency. Note was taken of the fact that the agency would undoubtedly be interested in optimum coverage but it was also noted that the facts concerning mutual interests and present business relationships had also been passed along.

139. The record does not show what, if anything, Burlington Mills spend on KHJ-TV. It does show that between October 1, 1960 and September 30, 1961, it spent $1,657 with RKO.

Cardinet Candy Company

140. After effort in that direction was made by Filson, some time in 1962 or thereabouts, candy machines of the Cardinet Candy Company were installed in Aerojet plants. Subsequently, Cardinet gave KHJ-AM a $10,000 order for advertising. Filson was complimented for his efforts by "RKO Sales." The commendation pointed out that previous efforts to sell Cardinet had been unsuccessful and without Filson's help the Cardinet order could not have been achieved.

141. There is no evidence that KHJ-TV received any business from Cardinet as a result of Filson's effort.

Carnation Co.

142. In 1962 Carnation was an advertiser over KHJ-TV. In a memorandum from Filson to Ragsdale written in July of 1962 the following statement was made:

> "The Cafeteria [Aerojet's] is catered by Hording-Williams of California. Under the contract Space General [Aerojet] controls the brands of products used. Carnation dairy products were specified, as we are now getting the Carnation tire business in Los Angeles."

143. Carnation did purchase advertising time on KHJ-TV. There is no direct evidence, however, that the purchase of such time formed any part of the consideration for Carnation dairy products being used at General's Aerojet cafeteria.

Duncan Coffee Co.

144. In a memorandum from Filson to a W.A. Robinson dated August 19, 1963, with copies to Ragsdale and Murphy, Filson stated: "I have just completed arrangements with the Duncan Coffee Company of Houston, Texas, for exclusive use of General Tires on all their vehicles." The letter went on to outline the particulars of the arrangement. On November 5, 1963, Filson wrote Ragsdale that Huggins-Young, a subsidiary of which produces Butternut Coffee, does considerable radio and television advertising on the West Coast, some of it through KHJ. Filson said that he had briefed Trenner "on our relationship" and that Trenner's people would talk to the "advertising people" and that "this" would enable them to get additional advertising. On November 20, 1963, the Vice President of Huggins-Young sent Filson a report on the number of tires Pico Lease had bought from General Tire through Mileage Consultants. The purchases totaled $5,500. The letter also assured that Huggins-Young had bought some time on KHJ-TV. On November 22, 1963 Filson wrote to Ragsdale re "Duncan & Huggins-Young" that "Pico Lease" is the company established by Mileage Consultants to handle lease of vehicles to Duncan Coffee in Texas and that Pico Lease had bought $5,500 worth of tires in three months. On the same subject, Filson reported that Boulevard Lease was the West Coast counterpart of "Pico Lease." Filson said that he would forward the quarterly report of Boulevard Lease to Ragsdale and asked Ragsdale to note that Boulevard Lease is also doing advertising on KHJ.

145. The record shows that while Pico Lease and Boulevard Lease spent no money with KHJ-TV between December 1, 1962 and November 30, 1965, Duncan Food Co. during that period, in 1963, spent $15,307 with the station.

Equitable Life Assurance Society

146. Thomas Ferns sold the original group life insurance policy to General Tire and Rubber for Equitable. Thereafter he sold group policies to General Tire subsidiaries. Ferns had long been with Equitable and since 1934 had handled General Tire and its subsidiary accounts.

147. On November 13, 1962, Trenner wrote to an RKO official:

> "I was impressed with the Equitable meetings, especially when I learned that the General Tire Company policy represents more insurance than lots of fair size companies in this country.
>
> "We surely must be paying Equitable a lot money. Enough, in fact, so that they are able to buy time on competitive radio stations in Los Angeles and leave KHJ and KFRC off the list.
>
> "I am sending Mr. Ragsdale a copy of this letter. He will get the point, I am certain."

148. Ragsdale responded on November 15, 1962, and recommended that the man in charge of group insurance at Equitable be contacted. He agreed that RKO should get some business from Equitable in view of the amount of business General gave Equitable.

149. On January 22, 1963, one of RKO's station employees at Detroit, reporting lack of success in selling advertising to Equitable over CKLW, suggested that General Tire should put pressure on Equitable. On January 30, 1963, Thomas Ferns sent telegrams to a Vice President and an Agency Manager of Equitable in San Francisco. Ferns noted that he had recently been in San Francisco installing group life insurance at RKO's KFRC. Some time thereafter he learned from the

manager of the station that Equitable's advertising agency was going to review advertising contracts for Equitable in the Bay Area. Ferns asked as a personal favor that the advertising be placed with KFRC. Equitable's Agency Manager in San Francisco responded with a long letter to Ferns. He stated that he had investigated the matter. He found that Equitable's advertising agency in selecting outlets for advertising throughout the country had included four of RKO's stations but that KFRC had been eliminated because of inadequate coverage. Despite group coverage and the Tom Ferns relationship, Equitable's advertising department could not justify buying from KFRC. The Agency Manager noted that the atmosphere had become disagreeable since the RKO representative had indirectly threatened to take away Equitable business.

150. On February 1, 1963, Ragsdale wrote Ferns that while RKO was getting some business from Equitable, they were having trouble in Boston, San Francisco and Los Angeles. The letter said that RKO salesmen did not want to be overly aggressive but the station managers found it hard to reconcile the fact that they are not being given an opportunity to run advertising for Equitable while it is being placed in their markets on competitive stations. Ferns' "good offices" were solicited to see "if you can help us in this particular situation."

151. On the same date an RKO official by letter thanked Ferns for the "pitch" he had made on behalf of KFRC, and a Regional Vice President of Equitable at San Francisco in an inter-office memorandum of conversation, noted that Ferns had called mentioning that he had telegraphed two Equitable officials urging that KFRC be favorably considered. The memorandum concluded with the following observations: it appeared RKO was not receiving Equitable advertising in Los Angeles; because of this Ferns thought an Equit-

able official should meet with officials of Aerojet to have Equitable's advertising channeled through RKO; the writer thought it better that he pursue the matter with "Home Office" advertising and public relations people, to which suggestion Ferns agreed; Ferns would supply a list of stations and persons to be contacted.

152. On February 5, 1963, Ferns gave Ragsdale a summary of Equitable's efforts on RKO's behalf concluding with the view that Equitable business could probably be obtained for RKO's Los Angeles and San Francisco stations but not for its Boston station because of labor union problems Equitable was confronted with at WNAC (RKO's Boston station). The letter closed with assurance from Ferns that he would do everything he could to get business for RKO and General Tire.

153. On February 5, 1963, Equitable's advertising manager was also writing Ferns. She said she was sorry KFRC, San Francisco, could not be used in Equitable's current spot radio campaign but good schedules had been placed at four other RKO stations. She explained many factors had to be considered in radio purchases and RKO's San Francisco and Los Angeles stations just didn't measure up, their ratings being so poor that Nielsen didn't even list them. Explanation had been made to RKO's New York salesman. Whenever possible RKO's stations had been used with full knowledge of the importance to Ferns of such use.

154. On the same date Ferns wrote the Equitable official to whom he had previously phoned and again asked for help on RKO's Los Angeles and San Francisco stations. Ferns said he was puzzled by Equitable's advertising agency's reliance on Nielsen ratings since in Akron Equitable had a radio campaign that was using three stations, two of which could hardly qualify from a market coverage basis. Ferns said he

was disturbed by the veiled threat of taking RKO business away from Equitable. This letter closed with this language:

> "Please use all your excellent persuasive efforts to have the Equitable use both KFRC in San Francisco and KHJ in Los Angeles. Harry Trenner in Los Angeles, Director of West Coast Operations, is a wonderful person and if there is any possible chance of our doing business with them, we certainly should do it because they have a splendid organization in Southern California. As I told you on the phone, the second day after the Group Insurance became effective, December 2, we had a $12,000 death claim in Los Angeles.
>
> "The organization in San Francisco under Al Rocco is also of very high caliber. They do not, however, have a TV Station but it seems to me that they could be very favorably considered for some business from us regardless of their market coverage.
>
> "As you know, Walter, I do not like to use pressures but I don't know of any other Broadcasting System that is doing business with the Equitable and certainly RKO-General, Inc. should be favored because they are a wholly-owned Subsidiary of General Tire and Rubber Company.
>
> "Good luck and I would appreciate hearing from you before you leave New York.
>
> "With kindest regards."

155. On February 28, 1963, Trenner wrote to Ferns. In this letter Trenner said: He was glad to have recently visited Ferns; the last time they had been together a good share of General Tire's west coast radio operation had purchased the Equitable Insurance package; he was interested in what Ferns had told him as to why the RKO west coast stations had been excluded from the Equitable spot radio buy; he had been on Madison Avenue for 15 years and he knew they had to employ a certain set of criteria but "slip stick" measurement without further necessary knowledge could at times be misleading; there was nothing mandatory in RKO's buying Equitable insurance, however the company's recommendation carried great weight as did the persuasiveness of Ferns, Equitable's reputation, and "a little boost from some of us out here"; but "was it the cheapest buy we could have made?"; Ferns' response to such rhetorical questions was well known; nothing was expected in return for RKO's having bought Equitable insurance, but the chagrin and hurt pride of RKO could be imagined when it was learned that Equitable was advertising only on RKO's competitors' stations; such concerns did not occur to purchasers of advertising on a nationwide basis; merely because some RKO stations had been purchased did not mean that RKO had been favored to any great extent; advertisers over WOR in New York feel lucky to be on the station; it was hoped RKO's message would get to the right Garcia; RKO's advertisers did not consider their money confetti; insurance companies that advertise over RKO do not think they've made a bad buy; indication of future consideration was "rather poor reciprocation for the job we did for you out here." The letter concluded with thanks in anticipation of future efforts in behalf of RKO. Copies of this letter were sent to Ragsdale, Watson and Quinn.

156. On March 28, 1963, RKO inter-office correspondence indicated that Tom Marks at KFRC was "shook up" every time he saw an Equitable advertisement over a competitor station and inquiry was made if the matter could be reopened with Equitable's advertising agency. He was informed that the agency considered the matter closed, that RKO's national sales manager had talked to Equitable's advertising manager again reminding of the relationship between Equitable and General Tire but found the latter in agreement with the agency. Wilke advised that at national headquarters of General Tire attempt was being made to "get the whole thing resolved once and for all," noting that since another advertising campaign was coming up it would be nice to know that Equitable, and their advertising agency, had their signals straight.

157. On April 11, 1963, an Equitable Vice President wrote to Trenner saying that he had had a pleasant conversation with Wilke, that Equitable was planning a spot radio campaign in the fall and that then all stations would be reviewed. Trenner's recent letter to Ferns had been forwarded to him and would be placed in the review file.

158. There is no evidence that Equitable ever bought any time over KHJ-TV as a result of the General Tire efforts outlined above.

Fugazy Travel Bureau

159. On November 1, 1962, Ragsdale wrote to Jack Poor of RKO saying that he was sending an attached letter to all General Tire facilities which could be served by the Fugazy Travel Bureau. Ragsdale stated that Fugazy would report to him on a semi-monthly basis and that a system would be established whereby a check could be made on Fugazy's

figures. The attached letter stated the following: General Tire had entered into a corporate-wide agreement with Fugazy whereby it would use Fugazy facilities wherever possible for transportation reservations and tickets; an explanation would be furnished of facilities available to General Tire; in the future instead of dealing with carriers, transportation should be obtained from Fugazy; use of Fugazy would materially lower transportation costs to General Tire. On March 14, 1963, Ragsdale wrote Aerojet to the following effect: General Tire in Akron had been using Fugazy with good results; when agreement had been made with Fugazy, Aerojet had been fully informed and had promised full cooperation; thus far Fugazy had received no Aerojet business and was completely staffed and ready to handle such business; use of Fugazy benefits General Tire; lack of service might offset benefits but experience in Akron had been good; it would be appreciated if the Fugazy program would be started at Aerojet as soon as possible; if there were good reasons why Aerojet could not be used an explanation would be appreciated. On April 18, 1963, Fugazy wrote Aerojet to the following effect: an appeal was being made for fair play and ethical business; a handshake agreement had been made in New York in September 1962 under which Fugazy agreed to spend an amount equivalent to 1-1/2 of its gross billings to General Tire on advertising over RKO stations in exchange for handling the travel of General Tire and its subsidiaries including Aerojet; while establishment of a Fugazy office in Akron had been easy, on the West Coast, because of Aerojet volume and nature of traffic, the problem was different; Aerojet officials had been cordial and cooperative and a proposal submitted by Fugazy had not been disapproved; on the basis of agreements and discussions Fugazy had spent $20,000 on West Coast installations; Fugazy had been informed of termination of agreement. The letter concluded with a long argument on behalf of Fugazy and assurance was made

that the matter could be worked out. On April 18, 1963, the President of Fugazy wrote Tom O'Neil referring to the difficult time his agency was having with Aerojet and soliciting O'Neil's intervention in the matter. Reference was made to the fact that $20,000 had been spent by Fugazy in setting up West Coast offices and that it would be very unfair to take the account away. Reference was also made to a rumor, attributed to lower echelon personnel at Aerojet, that American Airlines was considering removing business from RKO unless the Fugazy "account is returned." Fugazy assured O'neil that this was not American's intent.

160. On July 12, 1963, the President of Fugazy wrote the President of General Tire. In the letter he stated that Fugazy had been unable to complete arrangements with Aerojet and had been forced to close the offices that had been opened to service Aerojet. He felt sure that Fugazy could have served Aerojet, could have saved General Tire money, and could have contributed to RKO's advertising volume. The General Tire-Fugazy agreement in Akron had resulted in what promised to be successful operation for Fugazy. In the case of Aerojet, Fugazy lost over $25,000. The difficulty he attributed to Aerojet, "In all my years in the travel business, I have never seen more intrigue and deception. . . . I am truly embarrassed that your fine organization and our own would have our names associated with such intrigue and foul play." The letter continued with: an expression of doubt as to whether the situation could be salvaged; an observation that General Tire owed Fugazy an obligation; and an expression of confidence that corrective action would be taken. A letter to the President of Fugazy from the President of General Tire dated September 4, 1963, agreed to payment of $15,000 to Fugazy in "settlement." The letter expressed regret as to how things had turned out and hope was expressed that the future would develop mutual benefits. On September 9,

1963, the President of Fugazy wrote Ragsdale. The letter made the following points: Fugazy had been informed that Hertz was definitely placing General Tire on its approved list; Fugazy would like to move its Akron office to a General Tire retail store; it would like to share profits in lieu of rent; in settlement of Fugazy's loss [$23,000 loss from the West Coast operation] it had been agreed that in addition to the $15,000 cash payment General Tire made, Fugazy would be under no obligation to buy RKO advertising until $8,000 had been realized in net profit from servicing General Tire; Fugazy proposed that a 60-40 profit split be accepted in lieu of rent after $8,000 in profits had been realized by Fugazy; in a special arrangement with Hertz, Fugazy was to get an additional 5% above the 20% reduction given the General Tire complex business, which in volume was in the vicinity of $500,000. The over-ride income would be credited to the Akron office thereby making possible an immediate $25,000 source of income. Such an arrangement would involve mere paperwork routine.

161. On September 25, 1963, Ragsdale wrote the President of Fugazy thanking him for the help he had apparently given General Tire with Hertz Corporation. The letter went on to discuss the proposal that Fugazy locate in General Tire's Akron retail store. A dim view was expressed of the proposals to split agency profits in lieu of rent and to share in the over-ride Hertz was to pay Fugazy on General Tire business. The letter closed, "I don't feel we should enter into an agreement with you regarding the Hertz proposition but certainly do appreciate whatever help you can give us in cornering more of their tire business."

162. There is no evidence in the record that Fugazy ever purchased any time over KHJ-TV.

General Electric Company

163. On February 26, 1962, Wilke wrote to R.D. Moore, Director of Trade Relations, General Electric. The body of the letter reads as follows:

> "Confirming our conversation, the locations and types of our several broadcast facilities are as indicated below.
>
> "I would certainly appreciate your mentioning to Marty King in Cleveland that RKO General is a division of the General Tire Company. I am sure an awareness of the mutually beneficial association between General and General Tire will be helpful to us when Marty is directing the placing of his radio and television schedules."

164. General Electric spent no money on advertising with KHJ-TV between December 1962 and 1964. Between January and November 1965 it spent $5,100.

Hercules Powder Company

165. Hercules is a supplier of General Tire. In 1963 Ragsdale approached the company to buy time over RKO stations. He was told that the only such purchase in which Hercules would be interested was over RKO's Memphis station, WHBQ.

166. There is no evidence that Hercules made any purchase of advertising from any RKO station as a result of Ragsdale solicitation.

Hertz Corporation

167. A Trade Relation and Customer Information Report of General Tire on Hertz contains an entry dated July 19, 1961:

> "JBF to JGR [Filson to Ragsdale] – presently using National 45%, Hertz 35%, and Avis 20%. Are considering entering into a national agreement with one of the agencies. Do you have any preference?"

Another entry dated July 31, 1961, reads:

> "JGR to JBF – we do business with all three. Probably get more tire business from National but would have no particular interest with which company you made a nat'l agreement. Don't understand your purpose in making a national agreement when you get the same price from all."

Thereafter appear a number of entries relating to the Hertz – General Tire relationship including one dated July 13, 1962, which in pertinent part reads:

> ". . . They have agreed to all things we requested and to see that we get much larger share of their business however everything is being held up until our price is adjusted . . ."

In a letter dated August 24, 1962 from Trenner to Filson the following item appears:

> "I don't think it is necessary to rehash the Hertz deal which represented some of your efforts while at Aerojet and some after you had been transferred to Trade Relations. These people have been

> important radio and TV customers to us during the past fiscal year, and we can expect more business from them upcoming."

168. During the following years, these amounts were spent by Hertz over KHJ-TV: 1962 - $63,550; 163 – $90,025; 1964 – $20,400; 1965 – $9,350; 1966 – $15,210.

Humble Oil and Refining Co.

169. Some time in the early 1960's Ragsdale contacted his trade relations counterpart at Humble Oil, Edward V. Dorr. This contact was not considered by Dorr as pressure but one common in any business relationship. Dorr had had prepared a list of RKO facilities and the amounts Humble had spent with them. He referred Ragsdale to the Humble advertising agency. Ragsdale had RKO people call on the agency. Ragsdale then asked Dorr to notify the advertising agency of his interest. Dorr notified both the agency and Humble's advertising department of his interest. His interest was, if possible, to have RKO time purchased. Ragsdale later told Dorr that RKO was negotiating business with Humble's advertising agency and that while they were in good shape elsewhere they might have difficulty in Los Angeles and San Francisco. Dorr then sent a letter to Humble's marketing headquarters to the effect that it would be appreciated "all things being equal on quality and price, etc." to have RKO strongly considered since it is "presume[d] these folks are owners of good stations."

170. There is no evidence that Humble made any purchases from KHJ-TV as a result of this negotiation.

Langendorf Bakery

171. In 1962 Trenner suggested to Filson that if General Tire's subsidiary Aerojet changed suppliers of bread for its cafeteria, there would be created an advertising potential of $50,000. Langendorf had been purchasing time on KHJ-TV and in the year the statement was made had spent some $9,000 with the station. Filson checked on the matter. He found that the bakery then supplying bread to the cafeteria had, during a six-month period, bought $50,000 worth of General Tire's tires. Filson countered by asserting that Langendorf had spent $20,000 annually at KHJ-TV and KHJ-AM. Later the Aerojet cafeteria did buy some bread from Langendorf.

172. The record does not disclose the impact of Filson and Trenner's efforts on KHJ-TV sales to Langendorf. Purchases of advertising time by Langendorf from KHJ-TV between 1962 and 1966 ran as follows: 1962 – $8,860; 1963 – $8,675; 1964 – $10,500; 1965 – None; 1966 – $3,300.

Lyon Van and Storage Co.

173. In 1963 Lyon used General Tire tires on its vehicles. General Tire recommended Lyon, among others, for use in moving General Tire employees from place to place. In the fall of 1963 Filson met with Lyon's General Sales Manager. In early 1964 he was told by a Lyon official that Lyon planned to place $30,000 in business with KHJ. Later in 1964, an official of Lyon gave Filson the dollar amount of purchases Lyon had made from General Tire in 1964 and estimated a future 50% increase in purchases, and mentioned some $11,000 to be spent with KHJ.

174. There is no evidence of what, if anything, was spent or was to be spent by Lyon on KHJ-TV as distinguished from KHJ-AM. Further, there is evidence that the $11,000 contract to which the Lyon official made reference may have been cancelled.

Olin-Mathieson Co.

175. A Report of Call dated April 30, 1963, written by J. W. Fleck of Union Carbide and circulated to six Union Carbide officials, covered an interview between Fleck and D.A. Kepler, Director of Purchasing for General Tire and Rubber. The report began by noting that Kepler had disclosed further details of a General Tire deal on polyols with Olin-Mathieson. These were the details listed by Fleck.

> "1) Agreement between General and Olin is verbal; not written.
>
> 2) Basis for agreement is Olin's purchase of Radio and Television advertising from General's RKO affiliation.
>
> 3) General have agreed to make a minimum dollar purchase of polyols. We think this probably is an exchange of dollars on a fixed ratio in return for a fixed amount of advertising dollars.
>
> 4) There is no definite duration for this agreement."

The memorandum went on to say that he and the General Tire Purchasing Agent commiserated with each other over the lack of polyol sales made by Union Carbide to General Tire in view of the fact that Union Carbide furnished a qualified product. The General Tire agent ordered a list prepared of

what Union Carbide could furnish General Tire and indicated that later a forecast would be furnished of what purchases during 1963 General Tire could make from Union Carbide. Assurance was furnished that advice would be sought from General Tire's President (after he had returned from Europe) to see if the Olin deal was flexible enough "to lower the Olin polyol commitment in view of General's reduced consumption." In summary, the letter went on to point out, the General Tire purchasing agent was sympathetic to Union Carbide and a Union Carbide official would investigate the advertising situation.

176. Earlier in the year, on January 23, 1962 the President of General Tire sent to the President of Olin-Mathieson a letter which in pertinent part read:

> "I want to thank you very, very much for the hospitality you showed Sam Salem, Bob Wilkie, and myself last Thursday. It was a real pleasure meeting you and the other members of your organization.
>
> "I am sure that our two companies will get along well in our new relationship. It should be mutually profitable. As a matter of fact, from now on I'll never mention a rebate on my shotgun."

177. Olin-Mathieson purchased no advertising from KHJ-TV between December 1962 through 1963. In 1964 it spent $12,350 with KHJ-TV. From January to November 1965 it made no such purchase.

Pepsi-Cola Company

178. On August 1, 1962, an oilman from Oklahoma, Walter Duncan, who also had a Pepsi-Cola bottling plant, following

a conversation with the Chairman of the Board of General Tire over working out "something" of mutual advantage to Pepsi-Cola and General Tire, wrote Wilke a letter saying he would like to arrange a meeting between Wilke and the Executive Vice President of Pepsi-Cola, or his representative, to explore the matter further.

179. On August 14, 1962, Wilke wrote to Duncan that such a contact had been made: a luncheon was planned; the General Tire plant manager in Waco, Texas, had been contacted on behalf of Pepsi-Cola; word was that Pepsi was sold at the plant but employees demand favored Coca-Cola; it might be that if there were more frequent deliveries of Pepsi-Cola to the plant more Pepsi-Cola would be sold; the General Tire plant manager had been alerted to General Tire's interest in Pepsi-Cola; Wilke would be happy to discuss with Duncan's dealer what could be done to get more Pepsi-Cola business at the General Tire plant.

180. By letter dated August 22, 1962, Wilke sent a list of General Tire plant locations to a Pepsi-Cola Vice President, Charles N. Baker, and asked that he be called so that "we can further discuss the continuation and expansion of a mutually beneficial association between our respective companies." On September 21, 1962, Wilke wrote the Chairman of the Board of General Tire reporting that he had met with Baker and had discussed the possibility of Pepsi's expanding use of General's broadcast facilities in conjunction with exposing General Tire employees to Pepsi-Cola. On October 15, 1962 Baker furnished Wilke a status report on the use of Pepsi-Cola and Coca-Cola at General Tire plants. By memorandum dated November 6, 1962 to an RKO official, Wilke stated:

> ". . . As a result of some recent reciprocal arrangements, we should in the future share to a greater extent in the Pepsi-Cola spot campaigns where the RKO stations are involved."

This same report indicated that Pepsi-Cola's advertising agency and its owned and franchised bottlers had been advised of Pepsi-Cola's "desire in this respect" and suggested that a good RKO salesman contact the Pepsi-Cola account executive at its advertising agency. On November 12, 1962, an assistant to Hathaway Watson reported that he had advised all [RKO] station sales managers of the General Tire – Pepsi-Cola "situation" and indicated that contact would be established with Pepsi-Cola's advertising agency. On November 20, 1962, Wilke sent the following letter to the manager of General Tire's Waco plant:

> "I understand that someone from Akron has been in touch with you regarding our interest in Pepsi-Cola. Tom O'Neil has asked me to follow thru and thank you for any help you have given or will give the Waco Pepsi-Cola dealer in exposing his product in your plant.
>
> "In addition to Tom's personal interest in this set-up we are in the process of developing considerable radio and television business from the Pepsi-Cola Company here in New York and would in turn like to reciprocate by helping them obtain more business from the various General Tire Plants.
>
> "The Pepsi-Cola Company here has assured me the Waco bottler is now prepared to furnish your operation excellent service and attention, and any help you can give him will work to our advantage in our own radio and television business."

On December 12, 1962, RKO's National Sales Director wrote Wilke saying that the Pepsi advertising agency has been "pressured" to use RKO stations and that all "Sales" could do was to "stay on top" and continuously remind the advertising agency of the Pepsi-Cola – General Tire "relationship."

181. In a Pepsi-Cola inter-office memorandum from Baker to a Roland Ball in Memphis, dated January 7, 1963, Baker stated:

> "Some time ago Bill Durkee established a very fine rapport with General Tire and Rubber Company through their President and major stockholder, Tom O'Neill. As you know, this is a very large company with much diversification, owning besides their basic tire business, electronic development plants, theater chains and TV and radio stations. Bill asked me to work with O'Neill's assistant, Robert Wilkie, to get all the extra business from these diversified activities that could be developed. In return we were to encourage our bottlers to use the various radio and TV stations owned by General Tire as much as possible."

The memorandum concluded with notations of a complaint made by Wilke that RKO was not getting the cooperation that had been expected from Pepsi-Cola in regard to Station WHBQ, Memphis. The memorandum got response from a Memphis Pepsi-Cola bottler to the effect that WHBQ was getting a lion's share of their advertising business, some $21,000 out of an $82,000 budget.

182. In a letter to a Pennsylvania Pepsi-Cola bottler Baker wrote in pertinent part:

"Walter Duncan, who owns a number of Pepsi-Cola bottling companies including Oklahoma City, his home town, is an old and intimate friend of the O'Neil family who practically own General Tire and Rubber Company. In pursuing this relationship it was discovered that among the properties of General Tire, who as you know are quite diversified, was a chain of television and radio stations. Further investigation showed that our bottlers collectively were spending sizable sums through these facilities. The net result was that a Robert Wilkie was assigned by the O'Neils to work with me in getting Pepsi-Cola representation in all installations controlled by General Tire *where feasible*. Bob Wilkie has the title of Assistant to the President. To date we have been making considerable progress."

183. On April 9, 1963, the RKO National Sales Director issued a memorandum to all RKO Station Sales Managers. It reads:

"Sometime ago, I wrote to you informing you of the comments made on PEPSI-COLA. I also gave you the names of who to contact in your specific area.

"PEPSI-COLA has now asked how we are making out with the various bottlers. Please let me know specifically the type of schedules you have secured and the kind of money . . . as far as you can determine, how much they are spending on your competition or anything else that would be helpful in reporting to the PEPSI-COLA COMPANY."

On August 16, 1963, Baker wrote Wilke in pertinent part:

"I put some pressure on our bottler in San Francisco to get him to put some pressure on his advertising agency in your behalf, and I would like to find out what this resulted in, if anything."

184. KHJ-TV's role in the above affair seems to have been minuscule. On April 23, 1963, KHJ-TV wrote a memorandum to RKO's National Sales Director, the body of which reads in its entirety:

"KHJ-TV's only Pepsi spot business since acquainting B.B.D. & O. with our contacts has been as follows:

Last December '62 a one-week saturation and a very low cost per thousand went to KTLA.

"Since then they have offered us the chance to bid for four half hour remote telecasts of races from Hollywood Park in June to July on Friday nights at 10:30 - 11:00 p.m. Had to pass – went to KT LA."

Procter and Gamble

185. On March 30, 1962, Larry Murphy, Ragsdale's assistant, wrote the following memorandum to an accounts manager for General Tire Sales in New York City:

"Before leaving New York Wednesday, I ran down the whole story on Procter & Gamble and you will be happy to hear that they are the No. 1 advertiser with RKO-General.

"This being the case, we will not attempt to switch any business from Procter & Gamble to Lever Brothers and I think we should consider this to be a closed matter.

"My suggestion as far as Lever Brothers is concerned would be that on any further business calling for materials supplied by either one of these people, I am sure our Purchasing Department would be more than happy to consider Lever Brothers."

186. Procter and Gamble has purchased time on KHJ-TV. The record, however, does not disclose the impact, if any, on KHJ–TV business which may have resulted from the policy outlined in the second paragraph of the above-quoted language.

Riviera Manufacturing Co.

187. On January 29, 1962, General Tire's Vice President for Marketing, J.E. Powers, wrote Hathaway Watson to the effect that on a recent trip to Los Angeles he had met David Seigel, a sales promotion manager for Riviera, the largest manufacturers of convertible sleepers on the West Coast. Powers said that Riviera used General Tire's vinyl fabrics, spent considerable money on KHJ-TV, and did some business showing RKO movies. He stated that "[L]ike all of these people they want more time and are willing to spend a certain amount of money but not always the proper amount of money." Seigel had been informed that time rates were strictly up to Watson. Noting that Riviera could mean a million dollars a year in business to General Tire, and that Seigel had never been able to talk to Watson but only to salesmen, Powers asked Watson to call or write Seigel that he would be available for consultation in New York.

188. Watson forwarded Powers' letter to Trenner and asked for a fill-in. On January 31, 1962, Watson wrote Seigel that he would be on the West Coast in April, that if Seigel were

in New York he hoped he would stop in, and that meanwhile if Seigel had any matters to take up with the station he could talk to the manager there, or to Harry Trenner.

189. On February 23, 1962, an intra-General Tire letter noted that Harry Trenner had asked that a check be made of the possibilities of a "co-op" advertising plan for Riviera.

190. On September 18th Trenner wrote Watson. Trenner said that there had been a meeting with Seigel, that Riviera does spend considerable money with KHJ-TV, that as a big user of General Tire products Seigel wants advertising assistance from General Tire. Seigel was promised nothing but was told effort would be made to see what could be obtained for him. Inquiry had been made as to what kind of cooperative advertising funds could be obtained for Seigel but no response had been forthcoming. Trenner closed the letter with the observation that he did not know what "co-op" funds were available to Seigel but that if General Tire could not do more for Seigel than Seigel could do for himself, RKO was in an unfortunate competitive position.

191. There is no direct evidence that Riviera ever obtained a cooperative-advertising agreement with General Tire or RKO. However, Riviera did spend the following amounts with KHJ-TV during the following periods: 1963 – $12,000; 1964 – $12,000; January-November 1965 – $16,000.

Shasta Soft Drink Company

192. An RKO salesman in San Francisco wrote to Trenner inquiring about the chances of gaining distribution for Shasta Soft Drink in Aerojet's two large plants. He stated, "I sincerely believe KHJ, Los Angeles, will obtain a sustaining long-term contract from Shasta if distribution is accomplished."

193. There is no evidence that Shasta was ever sold in Aerojet plants. There is no evidence that Shasta ever purchased any time over KHJ-TV.

Signal Oil

194. On November 15, 1963, Filson wrote Ragsdale a memorandum, the subject of which was identified "Signal Oil Company." In that memorandum Filson stated: (1) he had talked with a Bill McKenzie and a Jim Enright [Enright was with Aerojet] about renewal of a service station lease; (2) he had introduced one Ken Mundt to one Jim Phegley; (3) he thought it doubtful if Aerojet land was available for service station use but noted that Mundt had other leads; (4) he would arrange for Mundt and McKenzie to have a meeting; (5) Signal planned to have an advertising budget and McKenzie was on the committee to choose media; (6) though Signal uses an advertising agency they maintain control of advertising; (7) Signal does some TV advertising and considerable radio advertising; (8) he would arrange a meeting between Mundt and Trenner.

195. There is no evidence that Signal Oil purchased advertising over KHJ-TV.

Standard Oil

196. On August 23, 1962, Filson reported to Ragsdale that he had talked to Standard's Manager of Trade Relations in San Francisco. Filson reported that the "Truck Tire Contract" was still available to General Tire, but the "Advertising Contract" would not go through, due to lack of advertising funds. On September 25, 1962, Filson made a similar report stating that Stadnard was doing some advertising on RKO General and that on his next visit he would arrange for an RKO Advertising Manager to meet with Standard's advertising people.

197. Standard Oil has purchased time on KHJ-TV on a rather consistent basis. There is, however, no evidence that the Filson efforts referred to above resulted in any sale of advertising by KHJ-TV to Standard Oil.

United States Rubber Company

198. On December 4, 1964, Edwin D. Meade, Director of Commercial Relations for the United States Rubber Company, wrote Wilke a letter, the body of which reads:

> "With regard to our telephone conversation I have discussed your interest, in any considerations for audio-visual programs of the type you mentioned, with Mr. Art LaCour of our Public Relations Department. He is aware of our business relationships and I am sure we will be glad to see your people at any time. He mentioned, in fact, that he expected a visit from your Mr. Canini this week.
>
> "I also tried to reach Mr. Duncan Ross, in charge of Public Relations at our Naugatuck Chemical Division, but he was out of town and not expected until next week; but I will get in touch with him along the same lines as my discussion with Mr. LaCour."

199. The record shows that U.S. Rubber spent the following amounts with KHJ-TV: 1963 – $18,220; 1964 – 0; January-November 1965 – $8,450.

200. In addition to the foregoing incidents Fidelity also tendered a showing on trade relations in action between General Tire and Chemstrand Co. and Sun Oil Co., as well as one involving General Tire and Bekins Moving and Storage

Co. As with many other facts developed on this record, the facts on these relationships do not rise to that level of materiality as to justify their recitation in findings.

201. It might also be noted that a distinguished expert in the field of economics, Dr. Theodore J. Kreps, Professor Emeritus of Business Economics at Stanford, testified in this proceeding. Dr. Kreps deplored reciprocal trade arrangements between large corporations, as ultimately harmful to the nation's economy.

Conclusions

General Tire

1. Findings covered in paragraphs 22 and 23, above, show that the licensee is, in fact, one of the nation's large conglomerates. The parent organization, through its subsidiaries, manufactures a wide variety of products and furnishes for sale numerous services. On occasion, within the complex, lines of authority appear to be blurred, as in the case of Hathaway Watson and John Poor (see paragraphs 29, above). As far as the Commission is concerned, however, such problems appear singularly the conglomerate's own business for no part of KHJ-TV's case rests on the theory that the station's shortcomings are merely fallout from inherently inexplicable intra-corporate phenomena. As noted in paragraph 29, above, taking the stand at hearing were numerous General Tire, RKO, and KHJ-TV executives and subordinates. None sought to turn his back on the fact that KHJ-TV is licensed to RKO, that RKO is a subsidiary of General Tire and Rubber, and that the rubber company is responsible for, and accountable for, the acts of the television station. In the field of corporate regulation that target for assessment of responsibility is not always so easy to find. It is to the credit of

the applicant for renewal of license that no such problem is here presented.

2. Findings covered in paragraphs 25-28, above, leave no room for doubt that General Tire, through its subsidiaries, has made significant contributions in the field of broadcasting, both at technical and program levels. Not the least of these contributions has been its responsibility for keeping the breath of life in experimentation with a whole new system of television broadcasting – subscription television (pay TV). Equally noteworthy was the company's presence in the vanguard of those who first cracked the motion picture producers' antipathy toward making their products available to television audiences. In assessing licensee qualifications, such contributions as those noted in the cited paragraphs are easily the subject of elision and it is easier to slough them off as accidental "spin offs" from a conglomerate's main mission – making money. The fact remains, however, that these accomplishments took time, effort, money, tenacity, and a measure of fortitude, that KHJ-TV's steward was responsible for them, and that America's technical competence and its culture have been advanced by them.[1] Only cynicism of a high order would deny that such contributions significantly enhance licensee qualifications.

3. Findings covered in paragraphs 38-39 show that KHJ-TV under General Tire had no bed of roses, finacially, in getting started. That it did have initial financial difficulty is not surprising when it is remembered that the station did not, and does not have a network affiliation, and that the city in which it competes is not without considerable in the way of

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[1] Some critical conclusions will be reached hereafter on KHJ-TV's employment of movies as program fare. Nothing there held, however, is intended to condemn motion pictures per se as a source of television programming.

competitive mass communications media. The facts also indicate that the conglomerate's large financial resources stood the station in good stead during its operational loss period. Experience has shown that serious public interest problems can rise when a licensed facility attempts to limp along with inadequate financing. Applicant licensees, such as General Tire, tend to furnish built-in assurance to the Commission that they wiii not be plagued by such problems.

4. Findings covered in paragraph 52 show that if there has been an imbalance in KHJ-TV's programming as to type of programs, such imbalance, quantitatively at least, was kept no secret from the Commission. It will be noted that according to the breakdown set forth in those findings, the station, in all but two non-entertainment categories, exceeded in performance that which it forecast in its renewal application and in those, closely matched application prediction. It will also be noted that in the entertainment category, by including special language programs under entertainment, as was done in the application, the prediction of time to be devoted to entertainment is not far from that reported as actually spent on that type of program. A record of accurate reporting to the Commission is an earnest of good stewardship.

5. The findings covered in paragraphs 54-87 show that KHJ-TV is capable of conceiving, fabricating and presenting programs well suited to meeting the public interest standard. But, the station policies set out in paragraph 34 win for the station no Brownie points. It is no recommendation to KHJ-TV's qualifications that it has so supinely bowed out of competition with network news. Contrary to what appears to be the station's rationale, network news is not the alpha and omega of television news programming. One would think that

a station so richly endowed with broadcasting resources, experience, and financial backing would, if the public interest were in fact the touchstone of its operation, welcome the challenge of competing in a field where it apparently believes there is so much excellence. Its policy of non-interference in serving audience needs, when it believes some other station those needs, viewed in connection with KHJ-TV's record here, suggests that the policy is merely a euphemism for one that dictates dedication of a majority of the station's air time to service of the young, the congenitally gullible and those not very bright. The policy then, in fact, directs the station's programming to an already well served group, and because it does and because it is disingenuous, it can only be held to fault licensee qualifications. The policy of not presenting editorials runs squarely athwart Commission policy. The Commission assesses demerits for failure to editorialize, see WHDH, Inc., *et al.*, 16 F.C.C.2d 1, at 10 and 12-13, 15 RR.2d 411, at 425 and 427; Memorandum Opinion and Order denying rehearing, etc., 17 F.C.C.2d 856, at 859, 16 RR.2d 185, at 190.

6. The facts set forth in paragraph 30, together with those set out in paragraphs 24 and 54-85, support a conclusion that the licensee of KHJ-TV is a broadcaster of many years' experience, having numerous and far-flung broadcast holdings and one fully competent to present, over its facilities, a variety of programming well designed to serve the public interest.

7. The findings set forth in paragraphs 31-37 and 42-51 suggest that KHJ-TV is a large, well-organized operation manned at the supervisory level by experienced, well-trained and doubtless able men. Basic policies of the station are established at the headquarters of General Tire. Like most companies that have multiple broadcast holdings, General Tire has a policy of seeing to it that its broadcast station personnel

are active in local civic affairs. These associations, on the part of KHL-TV personnel, have on occasion resulted in suggestions concerning programs to be presented over the station. Moreover, on occasion such suggestions have contributed to programs being presented.

8. Facts in paragraph 87 show that General Tire is not averse to increasing the expenditure of money for programming. Those shown in paragraph 88 indicate that KHJ-TV has won a measure of success in increasing audience during non-prime viewing hours. Those shown in paragraph 89 establish that there are a number of people in the Los Angeles area that speak well of the station.

9. Most damaging to General Tire as licensee are the facts set forth in paragraphs 91-97. KHJ-TV is licensed to serve the public interest. That it is located in a community that teems with talent and has its full share of social, economic and political problems are facts that can be officially noticed. That the public's spectrum space is in short supply is a fact so well known as to forestall discussion. Yet in light of all those considerations the cited paragraphs show that an inordinate amount of time was devoted by KHJ-TV to a bit-of-old-movie, a plea-for-the-sale-of-goods-or-services, a bit-of-old-movie, a plea-for-the-sale-of-goods-or-services, a bit-of-old-movie, a plea-for-the-sale-of-goods-or-services, hour after hour, day after day, week after week, month after month, year after year, ad infinitum ad nauseam. To hold, and such is the holding, that this kind of air-time utilization does not serve the public interest is an exercise of restrained understatement. Such air use by a station serves well the interests of the station and the advertiser. As the record amply demonstrates, it barely touches service to the public, much less service in the public interest.

10. In arriving at the foregoing conclusions full attention has been accorded the fact that besides old movies and commercial announcements KHJ-TV has also presented other packaged program material and some material that the station actually produced. By and large this material has been thoroughly described in paragraphs 54-85, above. As already noted, much of the material set forth in those paragraphs appears well designed to serve the public interest. But, it cannot serve to catapult KHU-TV's record into one of service in the public interest when viewed against its interminable use of old movies and commercial announcements for the bulk of its program fare. One swallow does not make a summer, good tires do not make a good automobile, a good appetizer does not make a good meal, and a modicum of public interest programs does not make a public interest operation.

11. Within the facts of record are those contained in paragraphs 98-111. They deal with KHJ-TV's presentation of movies featuring crime and violence. In the conclusion reached immediately above, the Examiner felt singularly free of First Amendment restraints. The rationale there varies little from what might have been employed had the station chosen to take itself off the air the majority of the time, or if General Tire, entirely bereft of its senses, had chosen to employ KHJ-TV for the sole purpose of running a film on the manufacture of automobile tires. The facts referenced immediately above, however, since they do not present a handle for quantitative analysis, do present something more in the way of First Amendment problems. Moreover, it is no business of the Examiner to initially pass on the sticky problem of crime programs over television and its attendant whether-when-and-why corollaries. But this much may unquestionably be concluded. KHJ-TV did present many movies which featured crime and violence. It not infrequently

carried such shows more than once. A respectable and substantial body of community opinion, in unmistakable terms, voiced disapproval of its presentation of the shows in the way that it did. Their disapproval fell on deaf ears. The protests of a viewer's group and a church group appear to have been met only by a gratuitous exhibition of arrogance (see paragraphs 107, 108, 111). Even a protest by a Member of Congress appears to have been treated with scarcely greater respect (see paragraphs 109-110). The licensee attitude thus reflected does not measure up to that sense of licensee responsibility to the public the Commission has a right to expect from those whom it franchises.

12. That movies featuring crime and violence were not the only aspects of KHJ-TV's programming about which many members of the public took a dim view is also amply demonstrated by the facts here under consideration. In paragraph 103 are summarized the findings of a professional organization based on a scientific sampling of public opinion concerning the program side of KHJ-TV's operation. Out of numerous program categories covered by this survey, only as to movies did the report show the station to be anything much more than a subject of apathy to its audience. In paragraphs 104 and 105 are detailed facts which show that an organization of knowledgeable and concerned viewers cited chapter and verse on a wide variety of program shortcomings. In paragraph 112 (the negative counterpart to paragraph 89) is digested testimony of a group of people who do not speak well of the station. Not unmindful that as heretofore noted, KHJ-TV has presented some programming directed at the public interest and that some members of its audience speak favorably of the station, the weight of the evidence clearly points to a conclusion that, wholly apart from the subject of crime shows, the station fails by a good deal to enjoy the respect and support of the audience it serves.

13. The foregoing conclusions cover the facts of record concerning the applicant for renewal of license, RKO General, Inc., up to the close of the first phase of hearing. In the interest of coherent conclusions, the facts developed at the hearing's second phase, concerning the trade practices of General Tire and the import and application of those facts to the qualifications of the station here at issue, are best assessed now, rather than deferring their consideration until after conclusions are reached on the facts covering the qualifications of Fidelity Television, Inc.

14. The facts set forth in paragraphs 126-199 leave no room for doubt that General Tire does engage in a trade practice that falls well outside conventional concepts of sale and purchase. The practice involves the parent company's buying and selling goods and services on behalf of itself as well as on behalf of its subsidiaries. Sales and procurement personnel of the parent company, or its subsidiaries, play no substantial role in the practice. Rather, it is effected by a group of specialists out of parent company headquarters. These specialists are equipped with data on the trade records of the companies with whom they negotiate. Particularly are they equipped with information on the sales and purchase records of the concerns with whom they negotiate vis-a-vis General Tire and its subsidiaries. The practice is called " "trade relations." It does not appear to be a practice unique to General Tire. As practiced by General Tire, it involves many facets of the company's far-flung holdings, including its broadcast interests which, of course, include KHJ-TV. "Trade relations" with General Tire demands a good deal of effort and undoubtedly a good deal of talent in the art of persuasion. The theme of the practice is "you buy from me – I buy from you." Although there is evidence that some employees of General Tire may have employed such language, the record here does not support a conclusion

that express threat of refusal to purchase forms any part of General Tire's "trade relations" practices. Generally, but not always, "trade relations" is carried on by General Tire with other large concerns or conglomerates. The ethos of this latter group does not embrace internecine strife simply because none in it are the least bit interested in vying for Pyrrhic victories.

15. From the standpoint of licensee qualifications, the fact that KHJ-TV is involved in its parent company's "trade relations" suggests several licensee qualification disabilities. First, on its face, relegation of the end product of a government licensed public service operation for use as small change in inter-corporate deals is infra dig such an operation. The rationale here used is the same that keeps laxative ads from flying atop the Washington Monument and public officials from endorsing commercial products. Second, the removal of competition from the comparative openness of the broadcast market place to the mysterious marts of inter-corporate exchange creates serious competitive difficulties for those without access to those marts. Many of the nation's largest advertisers are conglomerates and all, in one way or another, trade with conglomerates. How does a station whose only business is broadcasting go about satisfying a prospect whose interest, when placing an advertising contract, lies not only in reaching audiences but also in such disparate subjects as the sale of bread to cafeterias, the sale of insurance to groups, the sale of synthetic rubber components to a tire manufacturer, or the sale of soda pop to an industrial plant? The question asked is of course rhetorical. No independent broadcaster can hope to compete in such areas. But KHJ-TV can. It is just such multiple interests that the trade relations practice of General Tire embraces. Throughout its history the thread of concern over the independent broadcaster runs through the fabric of Commission policy. Is it not then only

fitting that a considerable measure of disapprobation be assessed against a licensee involved in a practice so damaging to the competitive position of the independent broadcaster? Third, in paragraphs 122-125, above, there is a discussion of the continued and continuing surrender of air time to the largely private use of licensees and advertisers. While there may be a small group of people in the country that view this development with equanimity and an even smaller group that view it with glee, the Examiner is convinced that most of the public is concerned over it and many are hostile to it.[2] Now if the Examiner is right in this premise, then the trade practices of General Tire present further grounds for concluding that as a broadcast licensee that concern's qualifications are suspect. With the vast array of machinery for getting rid of air time for advertising purposes that already exists in the broadcast industry, one would think that there is hardly a potential advertising dollar in the nation that could escape the sweep of that machinery. Not so. We now learn, through this record, that advertising is also disposed of by this conglomerate licensee at a level to which the ordinary machinery of broadcast sales cannot reach. It is unnecessary to commiserate over the impact this force has on the machinery. The machinery can stand the shock. But, it is important to recognize that this force does create a unique pressure, and a wholly unnecessary pressure, for enlargement of the amount of television broadcast time that is devoted to commercial continuity. It is no accident that KHJ-

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[2] The Examiner must proceed on conviction. In an industry much preoccupied with polls, samplings and surveys, there is a singular dearth of data on the public's reaction to the amount of time devoted to commercial advertising over the air. In over 20 years with the Commission during which time he had read the results of innumerable studies measuring the public's reaction to various facets of broadcasting, he has no recollection of having read one that reported response to the simple question, "Do you believe there is too much advertising over the air?"

TV has the kind of permissive commercial policy that it has. See paragraphs 91-92, above. Fourth, the trade relations practices of General Tire tend to stultify incentive to good programming. What stimulus is there for station ownership, management or personnel to expend energy and risk shrinking ownership's purse, in attempting to program a station in meritorious fashion, when all concerned know that the advertising with which the programming is to be associated can be disposed of through inducements largely irrelevant to program quality? To say that under such conditions all incentive to good programming vanishes, may be answering the question with overstatement. To say, however, that the force of stimulus is blunted, is an answer which not only the character of KHJ-TV's programming bears out, but one that is confirmed by the approach taken to programming by General Tire's trade relations people. In this latter connection reference may be made, for example, to the Equitable Life Assurance incident, paragraphs 146-158, above.

Fidelity

16. Facts set out in paragraph 113 show Fidelity Television, Inc. to be composed of 18 stockholders. Twelve live in Los Angeles or its environs, one lives in San Francisco, and five live in Orange County.

17. Facts set out in paragraph 114 show the stockholders of Fidelity to be virtually free of any ownership interest in any means of mass communication.

18. Facts set out in paragraph 115 show that persons representing 22.68% of the stock of Fidelity would be employed full-time at the planned station. Those facts also show that persons representing all but a nominal amount of the remainder of the stock would spend some time at the station or on station affairs.

19. Facts set out in paragraph 116 show the Fidelity stockholders to be busy businessmen, who collectively represent substantial activity in, and contributions to, a host of civic and professional organizations and affairs.

20. Facts set out in paragraph 117 show that Fidelity claims, as motivation for filing its application, the following considerations: There are 11 television channels allocated to Los Angeles; there are more people living outside Los Angeles but in the same general area than reside within the city; the greatest growth area lies around Orange County, an area considered by the Census Bureau as one separate and apart from Los Angeles; Los Angeles stations are oriented toward big advertisers; a substantial survey conducted by Fidelity through phone calls, letters and meetings indicated that KHJ-TV, of all television stations serving the area, did the least in the way of public service and was notorious for presenting old movies and and an excess of advertising; Commission policies appear to favor diversification of media and integration of ownership with management; conglomerate licensees cannot provide a full measure of public service because of responsibility to stockholders; conglomerate licensees cannot reflect integration of ownership with management.

21. Paragraph 118 shows that Fidelity proposes to move the KHJ-TV channel to Norwalk, California (population 88,000), a city 15 miles southeast of Los Angeles, and also locate an auxiliary studio in Anaheim, California (population 104,000). For what it may be worth, as a conclusion, the fact might also be noted that Fidelity would attempt to use some of the present KHJ-TV equipment were it to succeed here (see paragraph 119, above).

Comparison

22. Before final evaluation, it should be initially noted that the Commission in its order of designation made clear that a hearing involving a contest over a renewal of license presents different problems than do ordinary comparative hearings. It further stated that it had reached no determination as to the weight to be accorded various factors of difference between competitors for a license renewal. It also suggested that the parties in this hearing should feel free to urge any arguments they deem applicable concerning the weight to be accorded evidence bearing on significant factors of difference (see paragraph 2 of the Preliminary Statement, above). It is in the spirit of such language that the following evaluation is made.

23. The present licensee of the station is one of the nation's large conglomerates. That fact has not, however, impaired its answerability as a broadcast licensee. It has vast broadcast holdings. Those holdings, however, are widely dispersed and are located in areas where they have to compete vigorously for the public's eyes and ears. There therefore seems little chance that by reason of General Tire's broadcast interests the public, either in and around Los Angeles or elsewhere, is dependent upon a diet of that company's views and ideas for the intellectual nourishment that is obtainable from mass communications media. The operation of the station is directed and manned by highly experienced and competent personnel. Behind these men stands an organization that is rich in assurance of financial ability, has made significant contributions to the art of broadcasting and is one that, as far as this record is concerned, has a good record of accurate reporting to the Commission. That the combination of conglomerate leadership and station staff is capable of formulating and presenting individual programs that serve the

public interest is a fact the record makes unmistakably clear. The trouble with General Tire's stewardship of KHJ-TV is that, in the overall, its on-the-air operation miserably failed to serve the public interest. This ultimate fact the record also establishes unmistakably. It could well be said of General Tire at KHJ-TV that it "could" but "wouldn't" or "didn't." Why it chose to thus operate the station is of course a question that is locked in the breast of General Tire's management. A good guess would be that with a myopic eye on the dollar it decided "formula broadcasting" would "get by" because the station would never be called to account.[3] If that was the rationale behind the policy that has brought the station to the brink of loss of license, about the kindest thing that can be said of it is that it evinced considerable naivete concerning the stability of regulatory policy.

24. In addition to General Tire's bad record of programming KHJ-TV, it also labors under the disability of having involved the station in a business practice that does not square well with the basic standard under which the station operates. That consideration has been discussed above and it is not to denigrate its importance to say that it requires no further treatment here.

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[3] The formula referred to is as old as time. There have been many practitioners of it, including Phineas T. Barnum and Texas Guinan. One of its most colorful exponents was the western "medicine man". He rolled into a frontier town, bought a round of drinks for the boys at the bar, gave the Sheriff a couple of cigars, called out Little Sheba and went into his pitch selling his own particular brand of snake oil. Modern broadcast counterpart would call for these changes in casting and properties: Boys at the Bar . . . the so-called "Discriminating Audience"; the drinks . . . news, information and some quality entertainment; The Sheriff . . . The Commission; the cigars . . . the station's nod to the Commission's reporting requirements and program policies. Only nominal changes need be made for Little Sheba and the pitch of the medicine man.

25. The foregoing comments will serve to outline General Tire's non-comparative posture. What of Fidelity? Its stock is owned by 18 apparently successful and public-spirited businessmen. None have any substantial interest in media of mass communications. All but one lives in the Los Angeles general area and five live in Orange County. Behind the Fidelity application stands a very comprehensive survey and sampling of public opinion indicating that the locale in which Fidelity would operate its station is well populated, that many people in that area believe the Los Angeles television stations neglect their needs and the needs of the communities in which they live, and that KHJ-TV is the worst television station that purports to serve them.

26. The considerations noted in the paragraph above constitute formidable licensee recommendations for Fidelity as against General Tire. They do, however, require a little comment.

27. While there can be no question that as against General Tire the local ownership characteristics of Fidelity are superior, it should be noted that those qualities do not reach optimum proportions. None of the stockholders live in either Norwalk or Anaheim, the locations of the Fidelity proposed station and its auxiliary studio. If residence identification with a community begets all the public interest advantages that are held out for it, considering the healthy rivalry between communities that is so much a part of the American scene and the Commission's well-known requirement that stations are first responsible for serving the communities in which they are located, it would be more reassuring if all of the Fidelity stockholders lived within the city limits of either Norwalk or Anaheim. As far as the diversification-of-the-media-of-mass-communications criteria is concerned, Fidelity gets a solid preference, hands down. General

Tire has many such media, Fidelity represents virtually none. If the Commission is going to employ its "sudden death" rationale here and hold that any comparative superiority enjoyed by General Tire does not outweigh the comparative advantages adhering to Fidelity because of the latter's freedom from ties with other media, see *e.g.*, McClatchy Broadcasting Company, 19 FCC 343 at 381; 9 RR 1190 at 1220k, then the Examiner ought to close the book here now and move on to the ordering clause. But, it is too well-known to require citation of authority that the Commission's concern over *media diversification, as far as* implementation is concerned, is a sometime thing, and, the Examiner is not clairvoyant. He is, accordingly, emboldened to go on. To him the most solid preference that Fidelity enjoys stems from the fact that its proposal is backed by a comprehensive sampling of public opinion. Even this preference is subject to some reservation. To avoid laboring a subject that could take pages of exposition, the reservation may be simply stated with these questions. Is it consonant with national policy to further contribute to the city of Los Angeles becoming the hole in the doughnut of its surrounding communities? Are we now embarked upon a program of scrapping the allocation scheme that was so painfully worked out by the Commission's Sixth Report and Order?

28. Once it clears the easy (for it) hurdles – local ownership, media diversification and public opinion – Fidelity does not look too good. Attached to its qualifications are no experience in the field of broadcasting, no contributions to the art, no proof through the school of experience of licensee answerability for stewardship, no proof, through the same school, of ability to stand the shock of adverse financial

conditions, and no demonstrated ability to conceive and present programs of high quality.[4]

29. Even under the so-called integration-of-ownership-with-management criteria Fidelity looks bad. The facts shown in paragraph 115 indicate that two stockholders are going to work full-time at the station, that eight are going to work there from 5 hours to 20 hours a week and that six are going to sit on what appear to be working committees. There is no evidence that any of these people have experience in broadcasting. All, however, carry employment titles bearing supervisory connotations. If Fidelity is serious about its proposal, it is projecting an operation that will, at best, be signalized by confusion, and, at worst, by chaos. The station is to have a competent paid staff. Of this we can be sure or staffing would have been placed in issue. It boggles the mind to imagine what is going to happen when a competent staff finds itself supervised, advised, led or guided (or whatever directors, coordinators and committeemen do at a television station) by, roughly, a score of men, wholly without experience in broadcasting, whose efforts would, for the most part, be only sporadically expended. It is just as easy to believe that the torts, crimes, property and corporate work at the law offices of the Messrs. Simon, Medvene, Sheridan and Murphy might be effectively directed by the part-time efforts of a few television men who happen to be members of the bar, as to imagine that the kind of managerial setup Fidelity

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[4] It is certainly no compliment to Fidelity's qualifications that it was unable to get its program proposal into evidence. The announced purpose of the Commission's exclusion of program showings from evidence is to keep records free of "immaterial clutter." See Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393 at 397, 5 RR 2d 1901 at 1912.

proposes here would ever work at a television station. Proposals such as this are susceptible of two interpretations that should not be shrugged off. Either the proponents honestly believe that operation of a television station, unlike any other enterprise, can be effectively directed by an inexperienced group on a part-time basis, or they advance the proposal for show purposes only without intention to effectuate it. Neither inference is very palatable. The former suggests witlessness. The latter raises questions as to the advisability of entrusting stewardship to those who would attempt to fob off on a licensing agency such a tall tale. Once this latter question is raised, the whole problem of applicant credibility is presented and one begins to wonder if the Fidelity application is really advanced for the purpose of operating a television station in the interests of the public and the audiences in and around Norwalk and Anaheim, California, or, is the application merely a bid to wrest a license away from a vulnerable holder with the intent to dispose of it at the first opportunity, and in the process reap windfall profits out of slight investment. The Examiner, though not personally purged of suspicion, cannot, in good conscience, draw such a conclusion. The Commission's policies favor integration of ownership with management. The Fidelity application was, of course, tailored with the Commission's policies in mind. There is no direct evidence in the record that Fidelity does not intend to try to effect its integration proposal. It is conceivable that with some kind of "consensus of opinion" goal in mind it will attempt to bumble through initial operation with the kind of managerial congeries the proposal contemplates. Accordingly, Fidelity is held to squeak out of its integration proposal with only a demerit for having advanced such a foolish bit of business.

30. Turning finally to the matter of comparison, it is apparent that the record presents a mixed bag of considerations.

They all, however, boil down to this cold hard fact – on the basis of the record, neither applicant is any bargain as a broadcast licensee. Both have serious shortcomings, General Tire's perhaps the more serious. Moving to the stable for analogy, the choice between the two applicants might be likened to selecting between a race horse with acceptable blood lines, good conformation, demonstrated ability to achieve speed, and an unbreakable habit of jumping the track and galloping off to the feed bag, against the chance to acquire, sight unseen, a Chincoteague pony. We live in an imperfect world, however, and the Examiner's job is to make a choice. He will, without much enthusiasm, go with Fidelity Television, Inc. He will do this, primarily, because of KHJ-TV's poor record and, secondarily, because Fidelity does have marked superiority over General Tire in the areas of local ownership, diversification of mass communications media and favorable survey and poll support. All of these latter factors the Commission sets great store by. Although General Tire has an unmatched record of experience and latent competence, these factors have never, and do not now, loom very large among the Commission's reasons for granting preference to one competing applicant over another, see, *e.g.*, McClatchy Broadcasting, *ibid.*, and Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393 at 396 and 398, 5 RR 2d 1901 at 1910 and 1912-1913. Further, the Commission's comparatively recent decision in WHDH, Inc., 16 FCC 2d 1, 15 RR 2d 411, stands as the only contemporary precedent governing the disposition of competing applications for renewal of television station licenses. While the facts in WHDH vary somewhat from the facts here, the decision, viewed in its entirety and measured against these facts, leaves little room for doubt that it stands for the proposition that the present licensee of KHJ-TV ought to be replaced by Fidelity. Before making that recommendation, however, the Examiner would like to make a few final observations.

31. Like any corporate licensee, when it took franchise for KHJ-TV, General Tire assumed dual and conflicting obligations. On the one hand it had an obligation to serve the public interest, on the other an obligation to serve the financial interests of its stockholders. Without in any way backing off from what has been here found, that at KHJ-TV it did an inadequate job of reconciling those conflicting interests, it must be acknowledged that it was not aided much in the task of reconciliation by any clear and understandable requirements governing a television station's on-the-air operation. That General Tire could run a good, even excellent, public interest television operation in Los Angeles is a proposition the Examiner is, on the basis of this record, perfectly willing to accept. That General Tire ever would, in the absence of rules setting minimum standards for air-time utilization, long engage in any such operation is a supposition he is unwilling to accept. It seems to the Examiner that this record amply demonstrates that the imperatives of General Tire's obligations, to stockholders, unchecked by countervailing demands on behalf of the public, have constituted an insurmountable obstacle to its engaging in a public interest operation. But there is no evidence that the company is a compulsive law breaker or scofflaw. Quite the opposite, the record inciates that the company has considerable machinery for keeping its operations within the law. The Examiner cannot help but believe that had there been standards governing air-air-time utilization, the station would not have breached them. As bitter a pill as it might have been for General Tire, as a broadcast licensee, to swallow, it is highly doubtful that it would be in the pickle that it is in now if there had been rules that: (1) governed the amount of time that stations could devote to a particular type or source of program; (2) limited the amount of time stations could devote to commercial advertising; (3) prohibited sales by stations of advertising time for other than monetary consideration and

under terms spelled out in their rate cards. The Examiner would add that if such standards, properly drafted and intelligently implemented, breach the First Amendment or are outside the regulatory powers conferred upon the Federal Communications Commission by the Communications Act of 1934, he badly misreads the law, and has no feel for its development.

Accordingly, it is orddred that in the unlikely event an appeal to the Commission is not taken from this Initial Decision by any of the parties, or the Commission does not review the Initial Decision on its own motion in accordance with the provisions of § 1.276 of the Rules, the application of RKO General Inc. for renewal of license of television broadcast station KHJ-TV, operating on Channel 9 in Los Angeles, California, is denied, and the application of Fidelity Television, Inc. for a construction permit for a new television broadcast station to operate on Channel 9 in Norwalk, California, is granted.

Thomas H. Donahue
Hearing Examiner

Report No. 22-35 (9/3/69)